Ontario Human Rights Commission

Ontario

Annual Report 1983-1984

HUMAN RIGHTS CODE

PREAMBLE

WHEREAS recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

AND WHEREAS it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province;

AND WHEREAS these principles have been confirmed in Ontario by a number of enactments of the Legislature and it is desirable to revise and extend the protection of human rights in Ontario;

William Davis

PREMIER

MINISTER OF LABOUR

CHAIRMAN, ONTARIO HUMAN RIGHTS COMMISSION

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

2.—(1) Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status, handicap or the receipt of public assistance.

(2) Every person who occupies accommodation has a right to freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, marital status, family status, handicap or the receipt of public assistance.

3. Every person having legal capacity has a right to contract on equal terms without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

4.—(1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, record of offences, marital status, family status or handicap.

(2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or handicap.

5. Every person has a right to equal treatment with respect to membership in any trade union, trade or occupational association or self-governing profession without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

6.—(1) Every person who occupies accommodation has a right to freedom from harassment because of sex by the landlord or agent of the landlord or by an occupant of the same building.

(2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex by his or her employer or agent of the employer or by another employee.

(3) Every person has a right to be free from,

(*a*) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

(*b*) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

7. Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing.

8. No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

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ONTARIO HUMAN RIGHTS COMMISSION

ANNUAL REPORT

1983-1984

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June 1984

The Honourable Russell H. Ramsay
Minister of Labour
400 University Avenue
14th Floor
Toronto, Ontario
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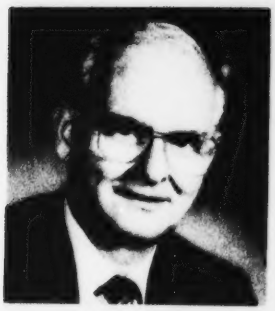
Dear Mr. Ramsay:

Pursuant to Section 30(1) of the Human Rights Code, 1981, it is my pleasure to provide to you the Annual Report of the Ontario Human Rights Commission for the fiscal year 1983/84 for submission to the Legislative Assembly of Ontario.

Yours sincerely,

Canon Borden Purcell
Chairman

MINISTER'S MESSAGE



I am taking this opportunity to extend my sincere appreciation to the Commissioners and staff of the Ontario Human Rights Commission for the many accomplishments of the past year.

To me as Minister responsible for human rights, it is particularly gratifying to see the people of the Province of Ontario meeting the challenges of the new Code with such understanding and enthusiasm.

In 1983/84, I had the honour of representing the province at the Federal-Provincial-Territorial Conference of Ministers Responsible for Human Rights. I also had the honour of being a signatory to the commemorative Human Rights Scroll, which was unveiled on December 5, 1983 in recognition of the 35th Anniversary of the Universal Declaration of Human Rights.

A number of important initiatives under the new Code have been taken in the past year. Among them, I have been especially pleased to see the increasing number of people with handicaps who have been taking advantage of the new protections provided in the Code.

I am delighted to be the Minister responsible for the Ontario Human Rights Commission whose message has promoted pride in our Code, envy from other jurisdictions and an increased sensitivity to our wonderful diversity of cultures and peoples.

"Together We Are Ontario."

Yours sincerely,

R. H. Ramsay

Russell H. Ramsay
Minister

CHAIRMAN'S REMARKS

As I complete the second year of my tenure as Chairman of the Commission, I unavoidably enter into the third with a sense of considerable achievement, tempered by a realistic assessment of all that remains to be done. In particular, our extensive public education efforts of the past year have met with success and have resulted in increased awareness of individual human rights and responsibilities throughout the province.

Our highly competent and conscientious staff continues to demonstrate a high degree of expertise in applying the Code and in conducting the Commission's programs of public education, conciliation and compliance, race relations and research.

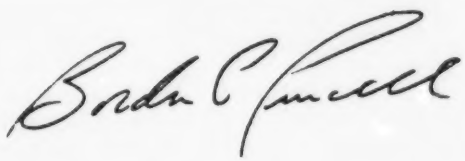
Discrimination on the ground of handicap has emerged as the fastest growing area of complaint since the proclamation of the new Code. This has, to some degree, been reflected in increased public awareness of this important ground.

At the recent Federal-Provincial-Territorial Conference of Ministers Responsible for Human Rights, an impressive series of initiatives was launched, including the creation of a Task Force on the Handicapped, in which our own Unit for the Handicapped will participate. Sincere appreciation is extended to our Minister of Labour, the Honourable Russell Ramsay, for the prominent and integral role he played in this area. My fellow commissioners and I have valued Mr. Ramsay's continuing commitment to the cause of human rights in the province of Ontario.

Other program initiatives and statistical patterns and trends of discrimination will be described further in this Annual Report.

It remains vital that all of us give a high priority to human rights. It is no accident that the preamble to our Human Rights Code reflects the language of the United Nations Declaration of Human Rights. In December of 1983, the Commission paid tribute to the 35th Anniversary of this Declaration by way of Human Rights Day/Week. We were particularly honoured by the unveiling of a commemorative Human Rights "Scroll" in the lobby of the main Legislative Building by the Honourable William G. Davis, Premier of Ontario and the Honourable Russell Ramsay. The Government's policy statement on race relations was also unveiled in the Legislative Building in 1983.

Throughout my career, I have always been dedicated to equality of opportunity and the fair treatment of each individual. I have experienced a similar dedication among all Commissioners and staff. We have a uniquely important role to play, but it is imperative that all individuals, organizations and institutions in our society take responsibility for improving human rights. We must all work together to build a society based on equality of opportunity, quality of life, dignity and respect.



THE COMMISSION

Chairman: Canon Borden C. Purcell

Canon Purcell, a member of the Commission since January 1978, was born in Athens, Ontario and left his position as rector of the largest Anglican parish in Ottawa in order to assume his duties as chairman of the Ontario Human Rights Commission in February 1982. The first clergyman to head such a commission in Ontario, Canon Purcell has planned and convened numerous ecumenical events that include conferences on racism, refugees and other disadvantaged persons. Involved in several international organizations on human rights, Canon Purcell is on the national council of the Canadian Human Rights Foundation, and is a member of the Consultative Committee on Human Rights for the Canadian Council of Churches.

Vice-Chairman: Rabbi W. Gunther Plaut

Rabbi Plaut is a veteran civil libertarian and social commentator. He has been a lawyer, clergyman and author. In December 1978, he was awarded the Order of Canada. In March 1983, he was elected president of the Central Conferences of American Rabbis, the international organization of liberal rabbis. He is the editor of the Commission's newsletter, "Affirmation", and has authored 15 books. Rabbi Plaut was recently reappointed to serve as Vice-Chairman until February, 1985.

Race Relations Commissioner: Dr. Bhausaheb Ubale

Dr. Ubale was born in India and educated in the United Kingdom. He holds a PhD in Economics. He authored a report entitled: "Equal Opportunity and Public Policy: A report on concerns of the South Asian Canadian community regarding their place in the Canadian mosaic." In July 1983, Dr. Ubale was elected to the board of directors of the International Association of Official Human Rights Agencies, and has also been granted an Honourable Fellowship in the Biographical Academy of the Commonwealth, founded in 1981.

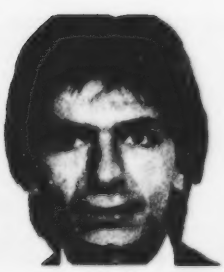
Race Relations Commissioner: Peter Cicchi

Mr. Cicchi has a long and illustrious history of community and ethnocultural involvement. He has been a trustee of McMaster University Medical Centre, a past president, director and supreme officer of the Order Sons of Italy, a member of the Federal Consultative Council on Multiculturalism, a co-founder and director of Festitalia Corporation, a co-founder and president of the Little Theatre of the Sons of Italy, a co-founder and vice-president of the Hamilton Italian-Canadian Folklore Ensemble, the president of the Dante Alighieri Society of Hamilton, a director of the Italian Language and Culture Centre of Hamilton, a director of Opera Hamilton and a member of several community and cultural committees. The recipient of many citations, Mr. Cicchi was, as well, honoured by His Holiness Pope John Paul II with the title of Knight Commander of the Order of St. Gregory the Great. Mr. Cicchi, who has been a commissioner since September 1978, was appointed to the Race Relations Division in February 1983 and completed his term with the Commission in February 1984.

Race Relations Commissioner: Beverley Salmon

Bev Salmon practised her profession of public health nursing in northern Ontario, Toronto and Detroit. She has been actively involved in issues pertaining to multiculturalism, racism, education and the status of women, and was founding chairperson of the Black Liaison Committee of the Toronto Board of Education.

Currently she serves on a planning board committee in North York, is a member of the Arbitrators Institute of Canada, and the Toronto Urban Alliance on Race Relations.



Commissioner: Louis Alexopoulos

A graduate and scholarship recipient of the Universities of Wilfrid Laurier (B.B.A.), York (M.B.A.) and Western Ontario (LL.B.), Mr. Alexopoulos was appointed in February 1984 and brings to his new role as commissioner, expertise in legal and financial areas. He is director and treasurer of the Canadian Paparaon Association - St. Nicholaos, was a founding member of the Hellenic-Canadian Federation of Ontario, the Hellenic-Canadian Law Association and is a member of the Hellenic-Canadian Professional and Businessman's Association.

Commissioner: S. Aileen Anderson

Appointed to the Commission in February 1984, Ms. Anderson is a real estate agent and has served five consecutive terms as an elected trustee with the Etobicoke Board of Education. She was elected by the board to be its representative on the Metropolitan Toronto School Board. Ms. Anderson was also a member of the Advisory Committee to the Minister of Education on general legislative grants, the Metropolitan Toronto Committee on Race Relations and Policing, and has served on the Etobicoke Planning Council since 1968.

Commissioner: Mary Lou Dingle, Q.C.

Mary Lou Dingle is an active partner in a Hamilton law firm. She graduated from McMaster University in Hamilton and Osgoode Hall Law School in Toronto, and was called to the Ontario Bar with honours in 1964. An active participant in community life, she is a charter member of the Hamilton Elizabeth Fry Society, a former member of the Equal Rights Review and Coordinating Committee for McMaster University, of the Legal Aid Area Committee in Hamilton, and is presently involved in the United Way and the Canadian Club.

Commissioner: Sam Ion

A syndicated columnist and feature writer currently working for The Toronto Sun, Ms. Ion has been a board member with the YMCA-YWCA, Association for Early Childhood Education, Consumers Association of Canada, and the Status of Women's Committee in Hamilton. She was nominated for Hamilton's "Woman of the Year" in 1978, and for the "Vanier Awards" in 1982.

Commissioner: Dr. Albin T. Jousse

Dr. Jousse, a fellow of the Royal College of Physicians and Surgeons of Canada, has published more than 40 papers in his field of rehabilitation medicine. He was both a professor and department head of Rehabilitation Medicine at the University of Toronto, and medical director of Lyndhurst Lodge Hospital for 30 years. He is a member of many agencies and societies concerned with the physically impaired, including the International Medical Society of Paraplegia and the Canadian Neurological Society.

Commissioner: Marie T. Marchand

Born in Moncton, New Brunswick, Mrs. Marchand studied political science and public administration at the University of Ottawa. She was a candidate for the Nipissing riding in the 1979 and 1980 federal elections. Fluently bilingual, Mrs. Marchand has been extensively involved in many community organizations and is currently manager of the North Bay Downtown Improvement Area.

Commissioner: Dr. Harry Parrott

Dr. Parrott brought a wealth of experience in public life to his role as commissioner. He has been actively involved in provincial politics and community service groups. He served in the provincial Cabinet from 1975 to 1981, in the portfolios of Colleges and Universities and the Environment. Dr.Parrott is chairman of the Committee on University Education for Northeastern Ontario, and has recently resigned from the Commission to assume his duties as chairman of the Ontario Science Centre.

Commissioner: Gene Rheaume

Gene Rheaume was born in the Peace River area of Alberta and graduated from the Universities of Saskatchewan and British Columbia. He was a member of parliament for the Northwest Territories from 1963 to 1965. Mr. Rheaume is currently self-employed as a consultant on native affairs. He was formerly the national chairman of the Native Housing Task Force and is an honorary life member of five Métis, Indian and non-status Indian associations.

THE DEVELOPMENT OF

HUMAN RIGHTS AND RACE RELATIONS IN ONTARIO

The History of Human Rights

As Ontario celebrates its Bicentennial this year, it is an appropriate time to reflect on the history of human rights and race relations in our province. It is a history filled with both bitter memories of discrimination as well as significant reminders of the constructive, if not inspirational, steps taken to forward our goal of equality of opportunity and the protection of human rights for the various groups and individuals that constitute our population.

Respect for human rights is an old tradition in Ontario, but it is a tradition fraught with fragility and vulnerability. The offensive practice of slavery existed in Canada less than 200 years ago. From the beginning of our history, the rights of Native peoples have taken a back seat to progress and development. Black people in Ontario have had to fight job discrimination, segregated schools and housing, and the denial of service in hotels and restaurants. Canadians of Japanese ancestry were subjected to humiliation and ostracism during the Second World War. Successive waves of immigrants in the 1940's and 1950's - those, at least, who were allowed to enter - recall the derogatory name-calling they had to endure and the struggle for human dignity and equal opportunity they had to face. Many visible minority newcomers to Ontario have suffered verbal and physical abuse in more recent times. Anti-Semitism has long been prevalent in Ontario. Ontario Jews have not forgotten the signs and practices that excluded them from beaches, hotels, restaurants, clubs and resorts as well as the anti-Semitic riot in Christie Pits, Toronto, on August 17, 1933. For years, many physically disabled people have been isolated from the rest of society. Persons who are handicapped are still denied access to many places and are refused equal opportunities to participate in the gainful aspects of daily life. Women continue to suffer from sex stereotyping with its attendant barriers to equality of opportunity, particularly in employment. Sex discrimination and sexual harassment are, sadly, all too common in our workplaces.

Fortunately, however, Ontario continues on an encouraging course of positive action in the field of human rights and race relations. Dating back to our first Legislative Assembly, which met at Newark (now Niagara-on-the-Lake) on September 17, 1792, our first Lieutenant-Governor, John Graves Simcoe, was an outspoken opponent of slavery. His government passed the British Empire's first anti-slavery law, the Anti-Slavery Act of 1793. This was "An Act to prevent the further introduction of slaves and to limit the term of enforced servitude within this Province." Accordingly, children of slaves, when they reached the age of 25, would automatically be set free. This Ontario law is considered to be the original foundation of today's Human Rights Code, since it preceded by 41 years the Imperial Emancipation Act, which abolished slavery throughout the British Empire, and preceded Abraham Lincoln's Emancipation Proclamation by a full 71 years.

In the 19th Century, Ontario provided a sanctuary for 40,000 runaway slaves. Many of our then leading public citizens were strong supporters of the abolitionist movement, and established organizations to help those escaping. Canadians such as George Brown, publisher of the Globe newspaper, spoke out against the inhumanity of slavery and offered encouragement and support to black slaves leaving the United States on the "underground railroad", to the freedom that Canada offered.

The Religious Freedom Act dates back to an Act passed by the Provincial Legislature in 1851. The 1851 statute dealt with church rectories and other religious matters. Among its provisions was the legal recognition of equality among all religious denominations in Ontario. This law guaranteed protection for the free exercise and enjoyment of religion and worship, without discrimination or preference. This established the foundation for the rights and freedoms enjoyed by the wide variety of religions practised in Ontario today.

The history of human rights in Ontario has been an ever-constant struggle for the dignity and rights of its citizens. The first human rights statute of the contemporary era was the Ontario Racial Discrimination Act of 1944, which prohibited publication, display or broadcast of anything indicating an intention to discriminate on the basis of race or creed. Its purpose was to combat the overt and repugnant signs that were at one time prevalent in shop windows, beaches and other places of public resort. Although such signs have largely disappeared, the legislative proscription remains.

By giving its assent to the Act, the Legislature embarked on an entirely new course in defence of the rights of all people. It established the principle that human rights are indivisible and that every person is free and equal in dignity and rights. It was, in effect, an assertive expression by the government that discrimination against any individual affects us all. It was an important pioneering statute because, for the first time, a legislature had explicitly declared that racial and religious discrimination were antithetical to public policy, and, from then on, the judiciary could no longer simply subordinate human rights to commerce, contract or property. Its influence was confirmed in 1945 when Mr. Justice MacKay of the Ontario High Court cited the Ontario statute in striking down a racially discriminatory property covenant purporting to prohibit sale of land to "...Jews or persons of objectionable nationality." Since then the Courts have generally demonstrated greater sensitivity to the pervasive and invidious consequences of racial discrimination and the corresponding importance of legislation attempting to secure human rights.

It is important to note also that the Ontario Racial Discrimination Act preceded the United Nations Universal Declaration of Human Rights by four years. In 1948, the U.N. unanimously proclaimed the Declaration of Human Rights, which recognizes the inherent dignity, equal and inalienable rights of all members of the human family.

Ontario was the first jurisdiction in Canada to give formal and public recognition to the moral, social and economic consequences of discrimination by establishing a human rights commission and enacting a comprehensive Human Rights Code in 1962. The Code consolidated all of the fair practices statutes passed in the 1950's. The Ontario Human Rights Commission was established in the preceding year, to seek the public's support for, and to create a public understanding and acceptance of, human rights legislation, fair treatment and harmonious intergroup relations. As its first major educational project, the Commission began publishing its official magazine, Human Relations, the forerunner of the Commission's present day quarterly, Affirmation.

The New Human Rights Code

Throughout the 1960's and early 70's, new human rights issues were emerging. Many of these were examined in the Commission's 1978 study of human rights in Ontario entitled Life Together. As a result, the new Human Rights Code was proclaimed as law on June 15, 1982, 20 years to the day since the enactment of the first Code. The

extended grounds and broadened mandate of protection placed Ontario once again in the forefront of human rights legislation.

Conciliation and Compliance

Fiscal year 1983/84 was the first full year of the implementation of a new and expanded Human Rights Code. On June 15, 1984, following a two-year grace period, the primacy provisions of the Code came into force. The Legislature decided, in enacting the new Code, that the public policy embodied in the statute should be reflected and respected in other Ontario laws. Accordingly, the provisions of the Code now apply and prevail in instances where other acts or regulations require or authorize conduct that contravenes the Code, unless the act or regulation specifically provides that it is to apply notwithstanding the Code.

The patterns of discrimination that have emerged over the year are detailed later in this report. Complaints alleging discrimination in employment continued to outnumber all other social areas during the year, and the Commission's application of the new provisions of the Code has been increasingly successful as a corrective in this area.

The blatant and deliberate discrimination against individuals, per se, in the past has now been greatly reduced. Such discrimination still exists, however, but it is now practiced with more subtlety and sophistication. And systemic discriminatory practices continue to be manifested in a complex interaction of seemingly neutral policies that affect the opportunities of minorities, women and persons with handicaps as they attempt to participate in the network of social and institutional structures that make up our society. Section 10 of the Code is directed to the consequences of those employment practices which, while not appearing to be exercised either intentionally or in bad faith, nevertheless restrict opportunities for a large number of our citizens.

Discrimination is frequently thought to result simply from individual acts of denial or exclusion. However, the Commission's investigation and conciliation of complaints alleging systemic discrimination is prompting employers to recognize that much discrimination is structured within and pervades their entire organizations. In dealing with such complaints, the task is to identify the structural features that operate to exclude certain groups from equal employment opportunities, to dismantle them and provide suitable, fair and reasonable remedies.

The trend towards recognizing the negative effects of constructive or systemic discrimination has been evident in recent years. Boards of inquiry have been quick to decide, for example, that average heights and weights of men and women were no substitute for testing whether the individual of either sex could actually do the job. The courts are requiring employers to look beyond any preconceived stereotypes of handicapped individuals as to what jobs they can and cannot perform.

The provisions of section 10 have been applied in complaints based on race, handicap and sex with respect to job requirements, pre-employment testing, and seniority systems. Ontario's employers are beginning to consider and implement non-discriminatory alternatives to those practices that perpetuate systemic disadvantage to protected groups, while, at the same time, advancing their legitimate business interests.

Moreover, affirmative action is now increasingly used as a remedy for systemic discrimination as employers come to acknowledge that properly designed and

administered special programs can create a climate of equality of opportunity that supports efforts to break down the structural and organizational barriers that sustain discriminatory employment practices.

Section 13 of the new Code has expanded and strengthened the former provisions for special programs. In addition, section 28(c) empowers the Commission to recommend that special programs be implemented. Special programs permit practical intervention at points where it is possible to remedy long-established patterns of discrimination that have created historical imbalances in employment opportunities for minorities, women and persons with a handicap.

In examining the caseload in the area of employment, it is evident that although privilege and disadvantage pervade all institutions, they are expressed most strategically in the labour market and the structure of occupations. An important objective of the Conciliation and Compliance program is to expand the opportunities of women, minorities and persons with handicaps in jobs requiring commensurate use of education, training and experience. The Commission is seeking an objective evaluation of the educational attainments and levels of skills of immigrants, obtained in their countries of origin. The Commission will be examining the criteria for membership or accreditation in professional and technical associations, and how these criteria are applied in assessing the qualifications of immigrants. An analysis will then be made to determine whether persons who trained overseas are victims of arbitrary and discriminatory barriers to accreditation in Ontario.

Race Relations

The Race Relations Division was established in 1979 as a response both to the community's heightened interest in race relations and the recognition by the Government of Ontario that race relations had become a critical issue that must be addressed by a special organizational scheme.

The long-term objectives of the Division are threefold: to realize to the fullest possible extent the goal of equal opportunity for all groups in society, to discourage through public policy and educational initiatives the promotion of bias and negative stereotypes against visible minority groups, and to establish harmonious race relations through long-term strategies involving all sectors of our society.

The decade of the 1970's was marked by an increase in race relations problems and conflicts. It saw the re-emergence of the more serious forms of overt racism, exemplified by verbal racial abuse and physical attacks, by rapidly deteriorating police-minority relations, and by the reappearance of racist groups determined to spread in the society the kind of extremist hate propaganda which the Commission was established to combat.

Prior to the late 1960's, most new Canadians emigrated from Europe and the United States. The effect of Canada's recent immigration policies has been to increase immigration from countries with large non-white populations. It is erroneously believed all too often that the greater presence of immigrants has caused racial and ethnic tension in the society. The increase in problems relating to prejudice and discrimination cannot be attributed merely to the characteristics of members of visible minority groups. What definitely multiplied within this period was the number of visible minorities who encountered hostility, prejudice and discrimination. This is more a reflection of the fact that these ills are inherent in our society and, in an earlier period, had led to the establishment of the Ontario Human Rights Commission.

During the fiscal year, the Cabinet Committee on Race Relations, which was established in 1979, developed a policy on race relations that was adopted by the Government of Ontario. The policy statement, which was unveiled in the Legislative Building in 1983, was the first to be produced by any government in Canada. It emphasizes the critical goal of equality of opportunity and the determination of Government to eradicate racism. Nearly 100,000 copies of this statement have been widely distributed throughout Ontario. The statement says, in part, "Acts of racial discrimination will be met with the effective enforcement of the Ontario Human Rights Code and with the development, whenever needed, of new legislative initiatives."

Although community, race and ethnic relations programs have been instituted by the Commission since its inception in 1962, these programs traditionally provided mediational services where inter-group tensions and disputes had developed. These services are still an important aspect of the program, but its resources are now devoted primarily to preventive measures aimed at averting racial, ethnic and religious tensions and conflicts. These programs are directed at both the community and institutional levels. These initiatives are discussed later, in detail, but three areas deserve special comment.

The impact of a high youth unemployment rate has a particularly adverse impact on those visible minority youths who are disadvantaged by lack of education and low levels of skills. Unemployment has negative cumulative effects on this group, and can cause young people to lose their self-esteem, confidence and motivation. The Division, together with other ministries and agencies of Government, has developed initiatives to increase the participation of visible minority youths in job creation, job training and apprenticeship programs.

In the past, critical changes have been made in school textbooks, school curricula and the school environment generally in the attempt to promote better race relations in the school system. This has been achieved through the cooperative initiatives of the Ministry of Education and the various boards of education, assisted by the Commission. The key element of change in education, as in other major institutions of society, has been to increase awareness among educators and school administrators, of the particular needs of a multi-racial and multi-ethnic student body.

The role of the criminal justice system, from enactment of law to its enforcement, is of great importance in race relations. In the mid-1970's, there was a dramatic increase in racially-motivated attacks against visible minorities, and particularly those of South Asian origin. In the same period, a significant number of visible minority individuals felt that they were not being treated fairly by the criminal justice system.

In 1977, an appeal taken at the initiative of the Attorney-General to the Ontario Court of Appeal established a new sentencing principle for racially-motivated assaults. The ruling stated, in part, "The sentence imposed must be one that expresses the public abhorrence for such conduct and the refusal to countenance it." This ruling binds all Ontario courts.

Many of the Division's programs are directed towards reducing or eliminating the barriers to equal opportunity within the different sectors and institutions of our society. However, discrimination and the social and economic disadvantage it creates are not only pervasive throughout social systems and institutions; they are cumulative and reinforcing in their negative impact on protected groups. The

Division's programs now attempt to deal with the interrelationships among the various types of discrimination in employment, education, training, housing and access to services. Unequal treatment in one area of life fosters inequalities in others, thus reinforcing negative stereotypes and minority status. Clearly, restrictions on employment opportunities can contribute to segregation in housing and in the community, and to poor achievement in educational and vocational activities.

Prejudice and discrimination are not precipitous outbursts; they do not occur in a vacuum. They are products of economic, political and historical situations, and are the culmination of a long and complex process of experience.

For these reasons, the Division works closely with Ontario agencies, interest groups, unions, community organizations, municipalities and local authorities responsible for such matters as police administration, education, housing, employment and social services. This represents a cooperative effort to enable minorities, persons with handicaps and women to move into those spheres in which they can achieve equality of opportunity through the elimination of job, housing, economic and social segregation and ghettoization. This, in turn, helps to break down the minority group isolationism that may develop as a response to discrimination.

Two examples of cooperative efforts will serve to illustrate this principle.

In 1983, the Division and the Ontario Women's Bureau (now the Ontario Women's Directorate) co-sponsored a conference that focused on the unique problems experienced by visible minority working women. Indeed, the Commission has enjoyed a very fruitful working relationship with the Ontario Women's Directorate, in a cooperative effort to address the many issues faced by women in their working and vocational lives.

Similarly, in the fall of 1984, the Commission is hosting a conference of senior members of the business community, with the assistance of Ontario's major business and industrial organizations. Senior managers direct and implement employment policies that affect hundreds of thousands of employees, and it is therefore essential for this sector and the Commission to work together in creating equal opportunities in the work force.

Despite the Commission's relatively short history, it has successfully met many of the challenges required under its mandate. The Commission continues to enjoy a fruitful working relationship with committed members of the community in promoting human rights and their protection in Ontario society.

COMMISSION ACTIVITIES

1983/84

The aim of the Ontario Human Rights Commission is to create a climate of understanding and mutual respect in which all of our people are made to feel equal in dignity and rights, and that each has a rich contribution to make to our province. The Commission promotes the public policy of Ontario to recognize the dignity and worth of every person and to ensure that equality of opportunity is guaranteed in all areas in which the right to freedom from discrimination is provided for under the Human Rights Code.

Public Education and Consultation

In an effort to accomplish this goal, the Commission places a strong emphasis on public education activities. From its daily experience, the Commission has become increasingly aware that there is an ongoing need to educate groups and individuals about the provisions of the Code and to reduce the prejudice and stereotyping that lead to discrimination.

During fiscal year 1983/84, the Chairman participated in events throughout Ontario concerning human rights and the Commission's programs of conciliation and compliance, race relations and public education. The Chairman gave more than 50 formal speeches, participated in over 25 major conferences and addressed or participated in more than 400 public education and community functions and consultations. In addition, he was interviewed many times by the print, broadcast and cable media.

The Commission continued its consultations with senior officials of major institutions, organizations and corporations, imparting information on the requirements of the Code and assisting in the development of human rights policies and preventive programs. Close contact was maintained with community, business and labour leaders, law enforcement agencies, educational, media, and religious institutions, social service agencies and all levels of government through speaking engagements, media interviews and liaison with community groups. As well, the Commission's staff continued its extensive educational programs of seminars, films, conferences, literature distribution and consultations.

During the monthly meetings of the Commission and the Race Relations Division, a number of individuals and organizational representatives are invited to exchange information which, in turn, enables the Commission to be kept abreast of particular human rights concerns. These discussions assist the Commission in its development of policies and programs. Through this format, mutual goals are recognized, as well as the need for co-operation in achieving them.

Close contact with school boards, organizations, community groups and individuals committed to the advancement of human rights principles enabled the Commission to hold, co-sponsor and participate in many seminars and conferences throughout the province during the fiscal year in an attempt to further increase awareness of and sensitivity towards human rights in our society. These events are discussed in further sections of this report.

Affirmation

Rabbi W. Gunther Plaut, Vice-Chairman of the Commission, is the editor of "Affirmation", the Commission's official newsletter. It contains feature stories, personal profiles, examples of significant cases and settlements, findings of boards of inquiry, editorials and articles on important human rights topics. Articles are written by staff, commissioners and interested members of the public. "Affirmation" has a circulation of 10,000, including employers, schools, labour, community organizations and members of the general public.

The June 1983 edition featured an article by the recently appointed Ombudsman of Ontario, Dr. Daniel Hill, on the history of human rights legislation and educational programs. Another article analysed the need for more racial diversity in advertising. The Chairman's corner featured his concern about anti-Semitic incidents in Ontario and the role that various religious institutions can play in this regard.

In September 1983, "Affirmation" provided a legal analysis of the new Code and an article on confronting racism in schools and classrooms. There was also an insert featuring the new Declaration of Management Policy Card. This Card reflects the provisions and the spirit of the Code, and is displayed by many companies, agencies and businesses across Ontario to demonstrate their commitment to human rights.

The December 1983 issue gave special recognition to the 35th Anniversary of the Universal Declaration of Human Rights. In March 1984, sex discrimination was highlighted, as was the work of the Commission's Unit for the Handicapped. Also included was an insert of the commemorative Human Rights "Scroll", whose purpose will be explained further in this section.

Northern Trip

In October 1983, the Chairman and Commissioner Marie Marchand, who resides in North Bay, travelled extensively throughout Northern Ontario. Canon Purcell visited Sault Ste. Marie, Thunder Bay, Dryden and Kenora while Mrs. Marchand travelled to Sudbury, Timmins, Moosonee and Moose Factory. Both addressed public meetings and met with concerned citizens' groups, community organizations and key civic leaders. The people and groups they met included local politicians, Native People's organizations, multicultural groups, Franco-Ontarian associations, provincial and municipal government officials, community colleges, chambers of commerce, personnel associations, unions, women's groups and law enforcement officials. In addition, both were interviewed and featured on various local media. The trips were extremely successful in providing the Commission with a first hand view of problems in the North and in making Northern Ontario residents more cognizant of the work and the concerns of the Commission.

International Responsibilities

Canada and its provinces and territories have been involved in the international human rights arena for many years. In signing the United Nations Declaration of Human Rights in 1948, all member nations assumed an obligation to promote human rights at home and abroad. Canada's interest was heightened during the Helsinki Conference of 1975 and the adoption of its Final Act, which was the reiteration by all participants of their international human rights commitments.

The Commission forms part of, and holds membership in, a network of human rights agencies on both the national and international levels. During the fiscal year, Commission representatives participated in conferences held by the International Association of Official Human Rights Agencies, the Canadian Association of Statutory Human Rights Agencies and the Federal-Provincial-Territorial Committee of Officials Responsible for Human Rights. A number of representatives from recently created human rights commissions abroad sought information and assistance by exploring and examining the role and function of the Ontario Commission.

A Federal-Provincial Ministerial Conference on Human Rights, held in 1975, created a new national organization called the Continuing Federal-Provincial Territorial Committee of Officials Responsible for Human Rights. This committee, which meets at least twice a year, was established to provide and maintain the necessary liaison and consultation for Canada to meet its obligations under the International Covenants. Ontario has been an active participant on the Continuing Committee since its inception.

The Continuing Committee has coordinated several conferences of ministers responsible for human rights, modelled after the initial one held in 1975, at which ministers from all jurisdictions in Canada review and discuss current issues and initiatives in the area of human rights. Ontario was represented at the September 1983 conference by the Honourable Russell Ramsay, Minister of Labour, the Honourable Roy McMurtry, Attorney-General and the Honourable Robert Welch, Minister Responsible for Women's Issues. This forum enabled the members to gain a common understanding of problems and concerns in the different regions of Canada and to keep abreast of Canada's role in addressing human rights issues in the international arena. In addition, the ministers proposed ways in which human rights programs in Canada can be strengthened to ensure that they conform with the principles enunciated in the International Covenants.

In August 1983, Canon Purcell represented Ontario when the United Nations reviewed Canada's Sixth Periodic Report of its undertaking in respect of the International Convention on the Elimination of All Forms of Racial Discrimination. The report outlined the various actions that have been taken by federal and provincial governments in Canada in order to implement the provisions of the Convention.

United Nations Declaration of Human Rights 35th Anniversary

December 10th, 1983 marked the 35th Anniversary of the United Nations Universal Declaration of Human Rights, whose principles form an integral part of the preamble to the Ontario Human Rights Code. The adoption of the Declaration was particularly charged with excitement because, for the first time, nations of the world spoke with one voice to proclaim the fundamental principles of human rights. The Declaration serves not only as an inspirational tribute to the human spirit, but also as a commitment to the furtherance of universal social harmony.

The Government of Ontario and the Ontario Human Rights Commission paid tribute to the occasion in many ways. In the Provincial Legislature on December 5, 1983, Premier William Davis made a statement commemorating Human Rights Day/Week. The Premier, the Minister of Labour and the Chairman unveiled a representative Human Rights "Scroll" in the Legislative Building. Fifteen thousand scrolls, which reproduce the Preamble and Part I of the Code, have been, and are continuing to be, distributed to schools, employers, unions, mayors and community organizations throughout the province.

The Commission sent letters to all municipal leaders across Ontario, asking their support and participation in declaring December 10th and the week of the 5th to the 11th as Human Rights Day/Week. The Commission also sent letters to a broad range of institutions, organizations, schools, religious institutions and unions, reminding them of the significance of this event, and enclosing ideas for celebratory activities. The gratifying response included articles and interviews on human rights issues in the media, requests for human rights seminars from business, industry and organizations, sermons in religious institutions based on international understanding, peace and universal social justice, and various other local activities.

Each of the Commission's 15 offices throughout Ontario was involved in at least one local project to celebrate the occasion. The overwhelmingly positive response indicated that most communities have a sincere concern and commitment for the support and development of human rights.

A National Coalition for Human Rights, based in Ottawa, was formed to plan the 35th Anniversary celebrations on a national scale. More than 40 national human rights organizations, representing more than five million Canadians, co-operated in developing a year of special activities, culminating in a national conference in Ottawa, December 8-11, 1983. Canon Purcell attended the conference on the Commission's behalf.

The Coalition included representation from women's groups, Native Peoples, racial, religious and ethnic groups, disabled people, civil liberties associations, legal organizations and students, as well as the Canadian Association of Statutory Human Rights Agencies, of which the Commission is a member. This Coalition reflected an example of the strong commitment on the part of organizations working in the area of human rights in Canada.

Clearly, individual human rights commissions and human rights legislation alone will never end discrimination. The Ontario Human Rights Commission has a uniquely important role to play, but it is imperative that all individuals, organizations and institutions in our society take responsibility for improving human rights.

LEGAL INITIATIVES

1983/84

Fiscal year 1983/84 was the first full year of the operation of the Human Rights Code, 1981, and we can now consider what issues have emerged.

While the case of Simpsons-Sears v. O'Malley, a case dealing with the issue of intentional discrimination under the previous Code, awaits its hearing before the Supreme Court of Canada, there is little doubt that the concept of constructive or systemic discrimination has expanded our understanding of the dynamics of discrimination and the long-lasting effects of past discrimination. What section 10 of the new Code does is incorporate within the ambit of discrimination, those practices, policies and requirements which, while they appear to be neutral, have an unequal or discriminatory effect on particular persons or groups.

Minimum height and weight requirements, for example, may be just as effective in excluding women from positions as outright refusals to hire them based on stereotypical views of their abilities. Are the specified minimum height and weight requirements truly related to job performance, or is there a less discriminatory and, in fact, a more objective way to determine job suitability? Similarly, requirements that all employees work on Saturdays preclude persons of certain religions from eligibility for employment. Word-of-mouth and "old school tie" recruitment practices may perpetuate the traditional racial, ethnic or sexual composition of the existing work force. And a job requirement that an applicant have "Canadian experience" where this is not a bona fide and reasonable qualification for the position denies recent immigrants a chance to compete equally for the job.

If the result of applying a general employment policy is to exclude members of a protected group, there is a prima facie case of discrimination. However, an employment regulation that is neutral on its face, but has the effect of excluding a certain group will be valid if the policy was made in good faith and is reasonably necessary to the employer's business operations. Once a prima facie case of discrimination has been established, the onus is on the employer to demonstrate that he or she is unable to change the policy or practice without undue hardship on the conduct of the business.

Probably the most difficult questions raised in the last year have been in the area of handicap, the major new ground in the Code. In most complaints filed, the respondent admits that the person was refused a job, dismissed or otherwise discriminated against because of the handicap. This is often due to the prejudiced assumption that the handicap in question must necessarily impede the individual's job performance and to a lack of knowledge about the abilities and potentials of persons with handicaps. The question to be resolved, then, is whether the person is capable of performing or fulfulling the essential duties or requirements of the job. If so, this renders the discrimination impermissible under the Code. To assess whether a person can fulfill the essential duties of a job, it is necessary to evaluate both the demands of the job and the corresponding abilities of the individual. To assess the ability of the person to fulfill the essential requirements may entail considerations of safety in that one of the essential requirements of performing a job is being able to perform it without placing co-workers or members of the public at risk.

A significant barrier to the employment of persons with physical handicaps is the use of pre-employment tests, such as medical examinations and strength tests. Such

tests may appear to be objective and to permit a quantifiable assessment of a job applicant. However, a particular test might not accurately assess the ability or aptitude of an individual to perform the job in question, and might disqualify persons who are capable of fulfilling the job requirements despite their handicaps. Thus, where a test is shown to exclude large numbers of an identifiable group, such as persons with handicaps or women, the Commission must establish whether the test is "valid", that is, whether it truly tests ability to perform the job. If it is not, alternative methods of assessing job-related abilities will be recommended to the employer.

Further explorations have been made this year in determining the extent of prohibited sex discrimination in what is referred to as the "sex plus" categories. Of great significance in the "sex plus" area were two board of inquiry decisions rendered during 1983/84 that expressed the view that discrimination because of pregnancy is a form of sex discrimination. This presents a further avenue that has heretofore been relatively unexplored.

A board of inquiry decision on racial discrimination examined in detail the dynamics of racial harassment. It has become apparent that racial name-calling in the workplace is a common-place phenomenon. While many people believe that much name-calling is done in jest, in reality it is most often derogatory and humiliating in its effect, and constitutes racial harassment for those who are the object of it, which is prohibited under the Code.

The truism of "Where there is a right, there is a remedy" is often stated, and while new rights are emerging, so, too, are new remedies. Such remedies are not necessarily limited to financially compensating the individual complainant. Rather, where there is evidence of a more widespread problem, they may be broader in their scope. For example, two boards of inquiry, having heard evidence of extensive racial name-calling in the workplace, ordered, in response, the establishment of management-worker race relations committees.

In cases of discrimination because of handicap in services or employment, the service provider or the employer may be asked to consider providing reasonable accommodation. In cases of sexual harassment, if there is evidence that the harassment is widespread, the Commission may propose that the company or institution establish a sexual harassment policy including an internal mechanism for dealing with complaints of harassment. Many settlements also include an agreement on the respondent's part that Commission staff will conduct a human rights seminar for personnel of the company.

Where past discriminatory practices have resulted in the exclusion of members of a particular group, or where systemic discrimination is found to be occurring, the Commission may recommend the establishment of a special program or may consider for approval an already-established program. Special programs are designed to relieve hardships or economic disadvantage, or to remedy the effects of past discrimination. Such programs do not contravene the other provisions of the Code.

These programs may include a review of employment practices and policies to ensure that they do not have a discriminatory effect; for example, changes in recruitment practices may be made to ensure applications from a greater cross-section of the community and special training programs for targeted groups in order that they may be eligible to compete and enter occupational spheres previously closed to them.

The provisions of the Human Rights Code apply not only to the private sector, but to the provincial government and its agencies as well. On June 15, 1984, as mentioned previously, all provincial statutes and regulations became subject to the Code unless the provision in the statute or regulation states that it applies notwithstanding the Code. During the two-year period since the Code came into effect the government has undertaken a review of its legislation, in order to identify potential conflicts with the Code, and to determine what should be done in light of these conflicts.

As these developments demonstrate, the work of the Commission continues to keep abreast of emerging issues by adopting strategies in response to them.

ROLE AND ACTIVITIES OF THE

RACE RELATIONS DIVISION

1983/84

In late 1979, the Race Relations Division of the Ontario Human Rights Commission was formally established to replace the Community, Race and Ethnic Relations Unit. The Division was given a statutory mandate in the new Human Rights Code.

The functions of the Race Relations Division, as related to race, ancestry, place of origin, colour, ethnic origin or creed, are set out in section 28(f), (g) and (h) of the Code as follows:

- to enquire into incidents of and conditions leading or tending to lead to tension or conflict based upon identification by a prohibited ground of discrimination and take appropriate action to eliminate the source of tension or conflict,

- to initiate investigations into problems based upon identification by a prohibited ground of discrimination that may arise in a community, and encourage and coordinate plans, programs and activities to reduce or prevent such problems, and

- to promote, assist and encourage public, municipal or private agencies, organizations, groups or persons to engage in programs to alleviate tensions and conflicts based upon identification by a prohibited ground of discrimination.

It is noteworthy that, for the first time, the Commission's role in assisting and encouraging other agencies, including municipal bodies, to engage in race relations work, is stated specifically in the Code. The proactive and reactive components of that mandate, with respect to responding to community tensions and conflicts, are expressly mentioned.

Central to the Division's mandate is the responsibility to promote the principle that human rights and harmonious race relations can be achieved only through the conscious efforts of all members of society. In fulfillment of this mandate, considerable resources and effort were devoted during fiscal year 1983/84 to developing and producing resource materials for educational programming, holding consultations, conferences and seminars with community groups and institutional leaders, monitoring the current state of race relations and responding to racial incidents.

New Initiatives, 1983/84

The several community consultations that the Race Relations Division held with the Filipinos in February of 1984, the Koreans in June of 1983, the Chinese in March 1983 and the Pakistani community on September 14th of the same year, reflect the

Division's determination to learn about the concerns and aspirations of community groups at first hand. The formal presentations received from community leaders on behalf of their groups addressed race relations issues and concerns in employment, the media, education, culture and social services delivery.

Having completed the first phase of these consultations, the submissions of community groups were then summarized and analysed for submission to the Chairman of the Cabinet Committee on Race Relations. Consultations with other minority groups will be carried out during fiscal year 1984/85. Overall, these consultations enable the Division to develop a closer working relationship with community groups and to increase its awareness of issues and concerns relating to employment, education, housing and social services.

Efforts have also been directed at developing resource materials for various community groups and institutional sectors to assist them in developing their own internal mechanisms for dealing with problems of racism and race relations. Many of the resources expended in developing these materials have been concentrated in the education, police, business and industry sectors, as will be discussed later in this report.

The Division continued to intervene directly where racial and ethnic tensions and conflicts arose, mediating between or among the parties in conflict. The Division uses current research findings to inform itself on the state of race relations in the province and to develop relevant policy initiatives to deal with the broad issues and concerns expressed in minority communities.

A new initiative was taken in 1983 to establish a consultative committee for the educational sector in order to maintain a close relationship with specialists and individuals with extensive involvement in this vital area. The Education Consultative Committee, made up of 15 members, including school principals, university teachers and school board members, has a broad mandate that includes helping the Division to identify race relations issues and concerns in educational institutions, and contributing to the solutions and strategies needed to deal with them.

ACTIVITIES, 1983/84

COMMUNITY, RACE AND ETHNIC RELATIONS

(a) Youth Employment

In its effort to improve the race relations climate by reducing racial, ethnic and religious tensions at the community level, the Division continued, during fiscal year 1983/84, to concentrate on the pressing issue of youth unemployment and its negative impact on visible minority youths in specific neighbourhoods in Metropolitan Toronto. Its special Summer Youth Employment Program, funded by the Ontario Youth Secretariat, was continued for the third year. This unique project provides for the placement in summer employment of over 100 young people drawn from these neighbourhoods with selected employers in both the private and public sectors. In its recruitment, the Division endeavours to ensure that the racial mix of the participants reflects the racial composition of the unemployed youth in the area. The Division is ably assisted by the advisory committees that it has established for this purpose. Comprised of representatives from the local agencies and institutions in the neighbourhoods from which the Division draws the participants, these

committees advise the Division on the project and assist in recruiting both the young participants and the employer sponsors. The young people, in addition to obtaining a first time job experience, also receive race relations, job and life skills training during the life of this eight-week program.

Again, for the second year, the Division also assisted in the implementation of an Ontario Youth Secretariat grant-program for the Metropolitan Toronto Police. This unique program, recommended by the Division in 1982, involves the placement of 35 young people from various racial and ethnic backgrounds in summer employment positions with the police department in an effort to improve police-youth and police-minority relations. Modelled upon the Division's own summer youth employment program, it also provides for job and life-skills training. The young people work with the Community Programs Section of the Metropolitan Toronto Police in meeting some of the important needs of senior citizens in the municipality.

In 1983, the Division, encouraged by the success of these summer youth employment programs, participated for the first time in a Winter Experience Program designed to assist young people who experienced great difficulty in obtaining employment during the winter months (November through March). The project provided the participants with work experience and training in race relations and life skills. Again, the Division approached employers willing to participate in the project and drew participants from selected geographic communities where youth unemployment is quite high among all racial groups. The Division intends to increase youth participation in these initiatives in Metropolitan Toronto in both the summer and winter months, and plans to expand the summer program to other parts of Ontario during fiscal year 1984/85.

(b) Hate Literature and its Control

The distribution of hate literature was of continuing concern to the Division in fiscal year 1983/84. As an example, the tenants of an apartment building in Metropolitan Toronto were recent victims of a hate literature campaign directed at South Asians. At their request, the Division brought the matter to the attention of the local tenants' association, the police and the local municipal mayor's committee on multiculturalism and race relations. Because of the possibility that the material could create racial tension in the high rise apartment complex, the tenants' association convened a public information meeting of residents of the building. The Division, the police and the municipal committee all assisted the tenants in working together to improve the racial climate in their neighbourhood.

The possibility of successful prosecution under the hate literature provisions of the Criminal Code is difficult given the narrow scope of these provisions. Accordingly, the Division recommended that these provisions be strengthened in its brief to the Parliamentary Task Force in the Participation of Visible Minorities in Canadian Society.

During the fiscal year, the Attorney-General commissioned Mr. Patrick Lawlor to conduct a study of existing legislation regarding hate literature and its control. The Division assisted in this study by providing examples of hate literature and background information regarding the nature and scope of the problem. Mr. Lawlor's thoughtful report on the various options available to redress this concern was released in March of 1984, and it is now under review by the Attorney-General.

(c) Municipal Involvement

Metropolitan Toronto

At the municipal and neighbourhood levels, the Division continued to assist the various municipal race relations committees to improve the race relations climate. The City of North York Mayor's Committee provided funding for a special project designed to address several issues that had contributed to an increase in racial tensions in a particular neighbourhood. Through the hiring of a neighbourhood relations worker and the establishment of a local committee comprised of residents, agency and institutional representatives, the racially diverse community was brought together to develop initiatives to alleviate these tensions.

In the City of North York, the Division co-sponsored, with the Brahms Youth Association, a conference which focused on education, recreation, the family and employment. This forum, which was also attended by representatives of local community groups and agencies, provided the members of the association with the opportunity to discuss the problems that affect them as members of a multiracial community.

Many other municipal committees are developing similar programs with the assistance of the Division. For example, the Division took part in a project designed to redress problems in the Jane-Finch community in North York, and was represented on an advisory committee established by the Municipality of Metropolitan Toronto to design a pilot project to assist a variety of community groups and associations to respond to concerns in the Jane-Finch area. The project employed the services of five outreach workers, who worked with the community to develop neighbourhood councils so that problems could be dealt with at the community level.

In the City of Scarborough, the Division has been assisting two local organizations to address racial and ethnic tensions: the Multicultural and Race Relations Committee of the Scarborough Human Services Board and the Ad Hoc Mayor's Advisory Group on Race Relations. In addition, the Division is co-sponsoring a conference on race relations with the Multicultural and Race Relations Committee of the Scarborough Human Services Board. Scheduled for June 1984, the conference is designed to heighten the awareness of the community and its institutions to the critical need for program initiatives on race relations.

Southwestern Ontario

In a continuing effort to sensitize community-based workers to the race relations issues that relate to their day-to-day work, the Division's southwestern region staff consulted with many workers in publicly assisted housing authorities during the fiscal year. Discussed were race relations issues as they affect tenants, property managers and the wider community.

As part of the Commission's outreach to Ontario's Native communities, the Division sponsored a conference in the southwestern region for Reserve Band administrators. Several workshops were designed to increase their awareness of the provisions of the Code and the responsibilities of the Division. Native community leaders play an important role by referring complaints and community problems to the Commission's district offices for resolution.

his recall and other workers with less experience and seniority had their hours increased, and that he was eventually placed on indefinite layoff in spite of the fact that other waiters more junior to him were retained.

He believed that these events occurred because of his nationality, ancestry and ethnic origin, and therefore filed a complaint with the Commission.

During the investigation, the respondent supplied personnel records that indicated that the reduction in hours was due to business decline and was universally applied to all waiters whose seniority was equal to or less than the complainant's. In addition, the Filipino waiter's work performance and attendance record was found to be superior to the complainant's. With respect to the allegation that workers with less seniority had their hours increased while the complainant's were reduced, documentation showed that no workers with less seniority than the complainant were given longer shifts.

When conciliation discussions did not result in a settlement, the Commission considered the file and dismissed the complaint, providing the parties with the following reasons:

- Several of the allegations reflected inaccuracies, to which the complainant had later admitted. He had conceded that the grounds alleged were not factors in the events that had occurred, but he was not willing to enter settlement discussions. The Commission was of the opinion that the subject matter of the complaint was vexatious and made in bad faith;

- several of the alleged incidents were more appropriately dealt with under the collective agreement and the Labour Relations Act.

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The two complainants, who are of German and Pakistani origin respectively, began working as machinists for the respondent in 1981. They alleged that they had received no complaints about their work performance during their first two years with the company. However, in 1983, they claimed that a new Italian foreman began to criticise their work and to give special privileges to the Italian workers in the complainants' area of the plant. Shortly thereafter, the complainants were told that their rates of production were inadequate, and their services were terminated.

One of them was then informed by a co-worker that an advertisement for a machinist appeared in an Italian newspaper, and the job was filled by an Italian applicant. He filed a complaint alleging discrimination in employment against the company and the foreman because of ethnic origin and place of origin.

The investigation revealed that with the appointment of the new foreman in 1983, the company instituted a program to improve production and work performance. As a result, a number of employees, including the complainants, had unsatisfactory areas of performance brought to their attention. However, the evidence indicated that the foreman tended to favour Italian employees, and that he was unduly harsh with their non-Italian counterparts in issuing corrective action reports about their performance. With respect to the job advertisement, the respondent stated that it

was cheaper to advertise in the Italian newspaper than the English-language daily paper. These and other factors supported the allegations.

In conciliation, the officer discussed the application of disciplinary procedures with the respondent and the foreman in question, pointing out that an uneven application of company policy constitutes unequal treatment under the Code and undermines employee morale and productivity. Also, placing job advertisements in one minority ethnic newspaper tends to have a differential impact on other groups in terms of equality of opportunity.

The following terms of settlement were agreed to among the parties:

- The employer will advertise in the daily English-language newspaper or in several minority ethnic papers;

- management and supervisory staff will attend a human rights seminar at the work place, and the foreman named in the complaint will also take a course in interpersonal communications and management - employee relations;

- the employer will post and enclose with pay cheques an invitation to all employees to attend a seminar on human rights in employment, to be conducted by the Commission's staff;

- the employer will notify employees of the procedure to follow for bringing instances of unfair discipline to the attention of management.

Because the complainants had found other positions, they did not seek reinstatement.

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The complainant, a black man originally from Guyana, alleged that he was subjected to harassment by his supervisor and finally dismissed. He claimed that he received reprimands for conduct that went unnoticed when practised by other workers and was frequently assigned extra duties. His complaint alleged discrimination in employment because of race, colour, place of origin and ethnic origin.

During the investigation, several supervisors indicated that the complainant had been dismissed because of poor work performance. The allegations regarding differential treatment could not be substantiated, and no other non-white worker was aware of discriminatory practices within the company.

In conciliation, the complainant acknowledged that the evidence did not support the allegations, but he insisted that the employer should nevertheless be forced to provide him with a monetary settlement. In addition, he had filed numerous grievances relating to allegations of harassment and favouritism during his employment, and none of them had been upheld.

Because a settlement could not be reached, the Commission reviewed the complaint, and dismissed it because the evidence indicated that discrimination had not occurred,

The Division also worked with community groups in Chatham in a cooperative effort to improve the race relations climate in their city. As a result of a conference sponsored by these groups, an ad hoc race relations committee was formed. The community groups will convene a similar but larger conference in 1984.

When residents of a Brantford condominium complained of racial harassment, the Division and the residents convened a meeting of the police and local politicians in order to discuss strategies for reducing the tensions that had developed and to improve the race relations climate over the long term. As a result of the meeting, the police and the residents are working in close cooperation with the Division to prevent further incidents of harassment.

In addition, the Division continued to work with and assist several human rights and race relations organizations in such cities as Hamilton, Windsor, Ottawa, Sudbury, Sarnia, Peterborough, Kitchener and London.

Northern Ontario

Similar initiatives are undertaken in the northern region, where Division staff consult and work closely with Native organizations and friendship centres in a cooperative effort to ensure equality of opportunity for Native peoples.

In northern Ontario, two local human rights committees have been established with the assistance of Division staff. Both committees were established with broad representation from community groups, government, private institutions and labour. They foster inter-community harmony and identify areas of potential tension or conflict in order to improve the ethnic and racial climate.

(d) Special Needs - The Visible Minority Woman

In response to the special needs of visible minority women, the Race Relations Division organized, in cooperation with the Ontario Women's Directorate, the first Canadian conference convened on discrimination as it affects visible minority women. The theme of the conference was "Racism, Sexism and Work." Some 500 delegates from across the province analysed the impact of racism and sexism on the employment of visible minority women, and a working relationship between policy makers and visible minority women was established.

To maximize the participation and input of all the women, extended outreach and consultations took place during the planning stages of the conference, and the co-sponsors were greatly assisted in their work by an ad hoc advisory committee comprised of visible minority women.

Through establishing a networking process, women were able to share their concerns and proposals for solutions. As an outcome of the conference, a province-wide, community-based coalition of visible minority women was formed to continue to work upon the goals and objectives established during the conference sessions.

Proceedings of this conference, with resolutions and recommendations, will be released in the coming year and should provide the Commission and the Ontario Women's Directorate with a basis for important policy and program decisions on the issues facing visible minority women in Ontario.

(e) Business and Industry

During the past fiscal year the Race Relations Division, with the assistance of the Conciliation and Compliance Division of the Commission, developed a training manual to assist employers in eliminating discriminatory practices and removing other arbitrary barriers that tend to undermine the principle of equality of opportunity in the workplace. The handbook, which is comprised of case studies and related exercises, is designed to introduce supervisors and managers to concrete examples of the dynamics of racism and discrimination. It suggests methods to ensure equal employment opportunity, as well as to provide concrete suggestions on how to resolve and prevent racial incidents that may arise. The handbook will be released to employers in the summer of 1984.

The Division acted in a consultative capacity when the East York Task Force on Employment sought its assistance in examining issues concerning equal employment opportunities for women and racial and ethnic minorities. The Division assisted the task force in the design and implementation of an employment utilization survey, and it continues to work with the task force as it examines employment policies and procedures used by the Borough.

(f) Unions

As one example of the Commission's educational activities with organized workers, Division staff conducted a seminar on human rights and race relations with Local 75 of the Hotel Employees and Restaurant Employees Union. The Division produced related resource material, which will be used by other union locals in their educational activities.

In conjunction with the Cross-Cultural Communications Centre, the Division developed materials in human rights training and a one-day seminar for union members on race relations in the workplace.

At the request of the Ontario Federation of Labour, the Division is assisting in the development of a policy statement and strategies for dealing with race relations issues that are suitable for adoption by the OFL's member unions.

WORKING WITH INSTITUTIONS

(a) Educational Institutions

The Division continued its public educational programs in educational institutions across the province by conducting seminars on the impact of discrimination on immigrant and visible minority students. It is currently developing new resource materials for educators to assist them in gaining sensitivity and skills for handling racial incidents and promoting racial harmony in the educational system.

In London, for example, the Division and the local school board conducted a one-day race relations sensitivity conference for teachers. The conference, entitled "Education in a Multi-Racial/Ethnic Society", was designed to increase the awareness of teachers to the critical issues in race relations in order that they may develop the ability to respond to such issues within the educational system.

The Division and the Hamilton Board of Education co-sponsored a curriculum development unit for Grades 9 and 10 English and Grades 11 and 12 Man in Society courses, on the subject of prejudice, discrimination and human rights. Issues for study include race relations, women's issues and discrimination against persons with handicaps.

The Division assisted in the planning of a conference of Windsor students who met to develop leadership capabilities among themselves as well as to improve inter-racial understanding in the schools and their neighbourhoods. The conference, entitled "Race Relations and Multiculturalism in Education", was co-sponsored by the Division, the Windsor Public School Board and the Windsor Urban Alliance. The discussions helped conference participants to stimulate awareness on issues affecting visible minorities in the schools. The Division is promoting this pilot project as a model for other school boards to adopt throughout the province.

In Ottawa, the Division, assisted by the Ministry of Education, the Faculty of Education and the Human Rights Research and Education Centre of the University of Ottawa, sponsored a conference on race relations and education. This conference was attended by several school boards in the Ottawa region as well as by community groups and citizens from Pembroke, Cornwall, Peterborough and Kingston. As a result of the interest sparked by the conference, plans are underway to convene a similar conference in Peterborough during fiscal year 1984/85.

Finally, the Division continues to encourage and assist various school boards throughout the province to design race relations policies and procedures with a view to their developing institutional leadership in combatting racial discrimination. The Division has been working with the Ottawa, Windsor, Etobicoke and Metropolitan Separate School Boards, and it continues to assist such boards as Toronto and the City of North York in developing strategies to remedy discrimination in schools.

(b) The Criminal Justice System

Correctional Institutions

The Division continued working cooperatively with the Ministry of Correctional Services to develop a human rights and race relations policy in its system. It is also participating in planning a race relations training program, which will be conducted for all staff in Ontario correctional institutions.

Law Enforcement Agencies

When police-minority tensions developed in a multi-racial community in Metropolitan Toronto, the Division played a facilitative role in forging links with a local community organization and the Office of the Public Complaints Commissioner. Assistance was offered with respect to incidents of alleged police harassment. The Division will be working with the Public Complaints Commissioner, the community organization and the police to improve the police-minority relations climate.

The Division is undertaking similar efforts in southwestern Ontario where problems have developed between the Native community and a regional police force. Staff of the Division held discussions with the police, Native leaders and the Ontario Police Commission on ways to implement long-term strategies designed to ensure positive police-Native relations in the area.

In the northern region, Division staff conducted in-service training with members of the police force and the security force of a large corporation in Sault Ste. Marie. The Division also participated in an Ontario Provincial Police training program on Native-police relations, designed to assist non-Native officers who police areas of the province with high Native populations. When police-minority tensions developed between the Métis people and the police in Thunder Bay, the Divison's staff was instrumental in bringing the issues to the attention of the police, who remedied the problem.

The Division also developed and conducted a race relations training program for the University of Toronto campus police, at the university's request.

(c) The Cabinet Committee on Race Relations

The Division continued to serve on the Staff Working Group established by the Cabinet Committee on Race Relations. The Race Relations Commissioner and staff assist the Cabinet Committee with respect to race relations issues as they relate to the responsibilities and programs of the Government of Ontario. In 1983, the Division participated on various task forces and work groups established by the Cabinet Committee in such areas as advertising and communications, publicly assisted housing, education and equal employment opportunity.

(d) Federal-Provincial Activity

The Division also participated on two federal-provincial work groups on issues affecting race relations in the area of education and Canada's obligations under the United Nations Convention on the Elimination of all forms of Racial Discrimination.

RESEARCH

The Division, through research, continues to accumulate information and experience from other jurisdictions in Canada and abroad as an essential tool in formulating its own policy initiatives in the area of race relations. This is partly in recognition of the international nature of race relations issues in today's world, which has resulted in the greater sharing of information between different jurisdictions both within and outside Canada.

The Division's in-house research facilities are service-oriented and have been used to support race relations initiatives within institutions and in the community as well as the work of specialized bodies and committees such as the Abella Commission of Inquiry on Equality in Employment. The Division prepared a number of position papers during the fiscal year, including a brief presented to the special House of Commons Committee on the Participation of Visible Minorities in Canadian Society.

DISCRIMINATION BECAUSE OF HANDICAP

Fiscal year 1983/84 marks the first full year of implementation of the provisions of the new Code relating to handicap. Statistics on complaints received over the year indicate that the volume of complaints alleging discrimination because of handicap exceeds the number of complaints on any other single ground.

The Code provides the right to freedom from discrimination on the ground of handicap in the areas of services, goods and facilities, accommodation, contracts, employment and membership in vocational associations. Harassment because of handicap is also prohibited in employment and accommodation.

Handicap is defined as any degree of physical disability, mental retardation or impairment, learning disability or a mental disorder. Lack of appropriate means of access does not, by itself, amount to discrimination contrary to the Code. Also, it is not a contravention of the Code to deny a person a job, service or accommodation if the only reason is that the individual is incapable of performing the essential duties or requirements of a job, or is incapable of fulfilling the essential requirements of a service or accommodation.

Questions about illness, injury or medical history, in the past or in the present, may not be asked on an application form or at any stage prior to the interview. Employers may raise questions regarding the extent of an applicant's handicap as it affects his or her ability to do the job, only during a personal interview.

Similarly, an employer may require an applicant to undergo a job-related medical examination either during or after the interview process, but not before, and such medicals should be job-related and apply to all applicants. In addition, the results of the medical examinations should be used only to determine the person's ability to perform the essential duties of the employment.

These provisions address common concerns that persons with disabilities have been denied employment opportunities because of traditional prejudices against them, together with lack of knowledge of their capabilities and potential. In particular, it has been the Commission's experience that qualified applicants with handicaps are being excluded from jobs without a determination being made as to whether the individual is able to perform the essential job functions.

The emphasis of Ontario human rights legislation has been on voluntary compliance with a conciliatory approach. Cases of discrimination because of handicap throughout the province are handled by the regional staff, who receive specialist guidance through an administrative arrangement established because of the unique and complex features of complaints based on handicap. Professional expertise is often necessary to assist the Commission in making decisions as to what constitute the essential duties of a job on one hand, and the individual's ability to perform them, on the other. Other complex cases requiring expertise include those involving novel tests of jurisdiction and complaints in which the validity of employment tests and other screening procedures are at issue.

ACTIVITIES 1983/84

Conciliation and Compliance

The Commission staff assist employers in their understanding of the provisions of the Code by reviewing their pre-employment screening measures, such as advertising, application form review and pre-employment medicals. In addition, employers are assisted in developing appropriate measures to determine the essential duties and requirements of specific jobs as these relate to the individual's ability to perform them. Educating employers about recruitment strategies that will inform handicapped individuals and their representative organizations of employment opportunities is another important responsibility.

Complaints of Discrimination

During the period of April 1, 1983 to March 31, 1984, the Commission handled 290 formal complaints. Of these 125 were resolved, 16 were dismissed by the Commission either due to lack of jurisdiction or lack of evidence to substantiate the complaint, and 36 were withdrawn by complainants. The remaining 113 were still active at March 31, 1984.

Of the formal complaints filed, 278 have been on the ground of physical handicap and 36 have been on the ground of mental handicap. The types of handicaps are shown in Table 3.

Some major issues dealt with during the fiscal year include the examination of physical standards established for firefighters and police officers, such as visual acuity, colour blindness, obesity, diabetes and allergies. The employer's selection criteria may allow for valid, job-related screening procedures. However, those procedures that are not based on ability to perform the essential duties of the job and that adversely affect the employment opportunities of persons with handicaps are not permissible under the Code.

Also, complaints registered against insurance companies where complainants alleged that they were refused insurance coverage because their handicaps were believed to place them at risk, have met with considerable success. Resolution of these complaints has resulted in mentally and physically disabled applicants being assessed on their individual merit, rather than reliance on group characteristics. An individual with a handicap has an equal right to contract for insurance unless the insurance contract differentiates on reasonable and bona fide grounds because of the handicap in question.

For example, a complainant with controlled diabetes alleged that he was denied car insurance because he was considered to be too high a risk. As a result of the Commission's intervention, the respondent agreed to delete the blanket exclusion of mentally and physically handicapped persons in its rating manual, to insure these persons at standard rates, to reconsider the complainant's application for insurance, and to issue a policy statement to this effect to all of their employees.

In another case, the complainant was denied car insurance because he has cerebral palsy. The evidence indicated that no effort had been made by the respondent to assess the complainant on his individual merits and driving record. According to the respondent, cerebral palsy represented a physical disability that impairs the operation of a vehicle for all of its victims. For this reason, the respondent believed

that it was allowed to refuse automobile insurance to all handicapped persons. However, the investigation revealed that the complainant had successfully passed a driver's course, had a record of five years of accident-free driving, and had received insurance in the past from other companies at no additional charge.

When apprised of these facts, the respondent sent a letter of apology to the complainant and offered to accept his application for car insurance at the standard premiums. The respondent also agreed to change its policy concerning the assessment of applicants, namely, that a disability is to be underwritten on an individualized assessment of risk basis, rather than on group characteristics.

Public Education

December 1983 was the 35th Anniversary of the United Nations Declaration of Human Rights. The Commission participated in this worldwide celebration by enlisting the support of school boards, municipal governments, advocacy groups, individuals, organizations and the media to inform the citizens of Ontario of the gains made in human rights generally and discrimination because of handicap in particular. Commissioners and members of staff were featured on local television stations, spoke to chambers of commerce, employers' associations and government agencies to increase the awareness of the people of Ontario to the principles and provisions of the Code and to promote equality of opportunity for the handicapped in all sectors of our society. In addition to using mainstream and community broadcast and print media, articles about the Commission's programs relating to discrimination because of handicap are included in the newsletters, papers and reports that are issued by interested organizations to their memberships.

The Commission continues to provide an educational and consultative service on a province-wide basis for business, industry, unions, vocational associations, educational systems, inter and intra-governmental agencies, voluntary and religious associations.

Further, members of staff conduct seminars on the Code's provisions relating to handicap for supervisors and managers within the ministries of Labour and Community and Social Services and the Workers' Compensation Board, in order to increase their awareness of the provisions of the Code relating to handicap.

In-house seminars are conducted with associations for the handicapped and social service agencies to promote and facilitate information exchange, contact development and networking. The Ontario Association for the Mentally Retarded, the Ministry of Labour's Handicapped Employment Program, the CNIB, Persons United for Self-Help (PUSH), and BOOST, to name a few, have been consulted and participate actively in assisting the Commission to deal with formal complaints. Lawyers from the Advocacy Resource Centre for the Handicapped (ARCH) have frequently represented complainants during fact finding conferences and conciliation. The Canadian Hearing Society has also assisted during fact finding in providing interpreters for complainants who are hearing impaired, as well as testing complainants' hearing ability in light of the essential duties and safety factors of particular jobs. Epilepsy Ontario and its member branches have provided the Commission with information on epilepsy and the factors that may or may not pose a risk to the worker, co-workers or members of the public.

Discussions with consultants on architectural or environmental barriers are on-going. Consultations with occupational therapists about accommodation, aids and

adaptations explore areas such as functional capacity assessments and medical reviews to determine the job performance ability and potential of individual complainants. Contacts have been established and maintained with agencies such as the March of Dimes, the Workers' Compensation Board, Vocational Rehabilitation Services and the Ministry of Community and Social Services.

Staff Training and Development

Training sessions for the Commission's staff on the legislation pertaining to handicap are conducted on a regular basis at regional staff meetings and workshops. In-house seminars and consultations for staff are also conducted for organizations and agencies dealing with issues relating to handicap. Consultations are held with community agencies whose clienteles may seek the assistance of the Commission, such as the March of Dimes, the Advocacy Resource Centre for the Handicapped, the Ontario Association for the Mentally Retarded, the Blind Organization of Ontario for Self-Help Tactics and the Canadian Hearing Society.

Consultations are routinely held with physicians, occupational- and physio-therapists and vocational rehabilitation counsellors, in order that the staff may become knowledgeable about techniques for assessing the relationship between various handicaps and job performance. In addition, family physicians are providing the Commission with detailed, job-site assessments about their patients' ability to perform specific duties or to work in various environments such as heat, dust and fumes.

The Commission continues to develop and acquire an extensive collection of resource information pertinent to discrimination against disabled persons. These materials deal with such subjects as existing legislation that protects the rights of the handicapped, and related legal interpretations and case law. The Commission's resource centre contains materials obtained from other human rights commissions and agencies or organizations involved with various types of handicap, and staff are regularly kept abreast of new developments in North America and overseas.

Program Development and Research

Upon the filing of a complaint, section 16 of the Code provides that the Commission may use its best endeavours to bring about a settlement as to the provision of access or amenities, or as to the duties or requirements, even though lack of access or adaptation does not by itself constitute a violation of the statute. If a finding of discrimination has been made by a board of inquiry, however, the board may make a finding as to whether the equipment or essential duties could be adapted to meet the needs of the person whose rights have been infringed, and if so, may order the adaptation of equipment and duties unless the costs involved would result in undue hardship to the respondent. Consultations with employers, landlords and business persons regarding possible adaptations are undertaken regularly.

The Unit for the Handicapped conducted two studies during the fiscal year:

Reasonable Accommodation of the Handicapped provides an analysis of how the concept of reasonable accommodation is defined and applied in several jurisdictions. Saskatchewan, Alberta, Quebec, Ontario, Canadian and United States federal laws concerning reasonable accommodation were examined in order to determine: whether there is a duty to accommodate the physically disabled, the

extent of the duty, how the courts and boards of inquiry have interpreted that duty, the relevance and usefulness to the Ontario Commission of any guidelines that have been established in this area, how "undue hardship" to the respondent is interpreted and applied and, finally, the relevance and practical implications of any existing accessibility standards.

Discrimination on the Basis of Disability in Insurances and Benefit Plans examines the processes used by the insurance industry to identify persons who represent increased risks because of a handicap. A basic premise of human rights legislation is that each individual has a right to be evaluated, and subsequently treated, on the basis of his or her own merits. However, the insurance industry has traditionally identified group characteristics upon which the insurability of individuals is based.

Section 21 of the Code provides that there is no contravention of the legislation where a contract of insurance differentiates on reasonable and bona fide grounds because of handicap. Under section 24, the Code permits genuine and reasonable distinctions or exclusions because of handicap in certain employee benefit plans. This study examines whether or not discrimination is occurring against handicapped persons in insurance, and the provisions of sections 21 and 24 are systematically reviewed and evaluated in comparison with similar provisions in other jurisdictions.

These studies are currently being reviewed by the Commission with a view to developing policy and program initiatives on the basis of the findings. In addition, the reports will be used in the Commission's consultative and educational programs.

International Responsibilities

1983/1992 has been proclaimed as the Decade of Disabled Persons by the United Nations. At the September 1983 Federal-Provincial-Territorial Ministerial Conference on Human Rights, ministers expressed their support for the United Nations Decade of Disabled Persons, and instructed the Federal-Provincial-Territorial Continuing Committee of Officials Responsible for Human Rights to engage in a consultation process for the development of a plan of action. A working committee has been established for this purpose, including representation of the Ontario Human Rights Commission. The committee presented an interim report to the ministers in May, 1984.

EXAMPLES OF

COMPLAINTS OF DISCRIMINATION

1983/84

EMPLOYMENT

Race, Colour, Nationality, Ancestry, Place of Origin, Ethnic Origin

Seven black males, employed as cleaners for a major public amusement facility, alleged that they and other black employees had been victims of both intentional and systemic discrimination by both their employer and union. A black community organization also filed complaints on their behalf. The complaints alleged discrimination in employment because of race and colour.

The allegations included the following:

- Of 600 employees, only nine were black and all but two of them were employed as cleaners. No whites had ever been employed in this position;

- because the collective agreement provided that seniority was non-transferable among jobs in the organization, advancement, promotion and transfer were effectively prevented for black employees, who were concentrated in the lowest positions in the company;

- when staff reductions were made for budgetary reasons, half of the cleaners were laid off. Persons in other job categories, however, had their hours reduced according to availability of work.

Investigation revealed that hiring tended to be by word of mouth within each job classification, thus perpetuating a pattern of job ghettoization that began with the opening of the facility in 1960 when overt discrimination was especially prevalent. It was learned that one of the complainants was denied a position in Security, and that a white friend of another complainant was denied employment as a cleaner.

An investigation of company records established that new white employees had been hired in the cafeteria after the complainants had been bumped and laid off, and that the employer had made no attempt to consider any of the complainants for the vacancies. However, these actions had been carried out by a concessionaire doing business in the United States that was no longer under contract to the respondent. The investigation substantiated most of the allegations. However, the investigation did not support the allegation that the lay-off of cleaners was racially motivated.

A conciliation meeting was held between the complainants, the employer, the union and a representative of the community organization. The parties agreed to the following terms of settlement:

- An affirmative action program was designed, with a referral service conducted by the community

organization. The organization is being advised of all vacancies, and refers qualified applicants to the company;

- the employer instituted a central hiring system, with systematic job-related criteria for selection and placement. The manager of the new system seeks referrals from the community organization before taking other recruitment measures. The Commission will monitor the program for three years, and will make periodic assessments of progress made. At the respondent's request, the Commission issued an order under section 13(1)(e) of the Code respecting the special program;

- the employer has undertaken, in consultation with representatives from the Commission, the community organization and the Ontario Federation of Labour, to reduce or eliminate any clauses in the collective agreement that have the effect of maintaining black employees in jobs with low classifications;

- one complainant was placed in the position of waitress from which she had been bumped;

- job offers were made to the other three complainants who had been laid off.

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A black woman of Trinidadian origin had been employed as a housekeeping aide by a hotel for two years. She alleged that after she was laid off due to a shortage of work, she maintained contact with the personnel department in the hope of being recalled in the Housekeeping Department. She told the employer that she was willing to work in other areas of the hotel. She claimed that she was later rehired as a clerical worker but was dismissed after one week on the job. Shortly thereafter, a white woman was hired in the complainant's former position of housekeeping aide. The complainant alleged discrimination in employment because of race, colour and ethnic origin.

The investigation revealed that the complainant's work performance in the clerical position had been good, and that she had received excellent performance appraisals in the Housekeeping Department. An examination of personnel records showed that only one other black person was employed in a clerical or secretarial position. Many other non-white employees indicated that they were treated unfavourably because of their race. The weight of the evidence supported the allegations of discrimination.

In conciliation, the respondent agreed to reinstate the complainant in her former position as housekeeping aide, with her original seniority date. The employer also agreed to consider her for other jobs for which she qualified in the hotel. Management made a commitment to attend a race relations seminar conducted by the Commission's staff, and to issue a declaration of the employer's policy of non-discrimination to all employees.

After being highly recommended by a supervisor in the Supplies Department of a hospital, the complainant, a black male originally from Nigeria, was interviewed and hired by the manager. The complainant alleged that at the end of his first three weeks on the job, the manager dismissed him because he had been late for work twice and had delivered supplies out of sequence on one occasion. The complainant also alleged that the supervisor who had recommended him was told by the manager that if she had known the complainant was black, she would not have interviewed or hired him. The complainant alleged discrimination in employment because of race, colour and ethnic origin.

The investigation established that although nearly half of the female employees in the Supplies Department were black, the complainant had been the only black male to be hired by the manager. In addition, many other staff members had occasionally been late or had varied the sequence of deliveries, but no disciplinary action had been taken. This evidence substantiated the allegations of the complaint.

In conciliation, the respondent agreed to compensate the complainant in the amount of $2,600 for earnings lost due to discrimination, to provide him with a letter of reference and to post Code cards in public areas of the hospital.

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A black machine operator alleged that he and other black employees were laid off because of shortage of work and were later dismissed. Despite repeatedly calling and visiting the plant asking for work, he was not rehired. Meanwhile, he claimed that he had learned of several white workers on lay-off who were rehired and others who were newly employed. He was informed by a co-worker that the employer had said he would not hire any more blacks because of the poor work records of two former black employees. The complainant, who had an excellent work record, filed a complaint alleging discrimination in employment because of race and colour.

During investigation, the employer claimed that although the complainant had been a good worker, he had not been rehired because the machine he used to operate was being phased out and he was considered to be unqualified to work with other machines. However, no evidence was found to support this claim, and the complainant had not been given the opportunity to try other machines.

The evidence indicated that the company had indeed recalled some of the white workers and had hired additional white operators. Also, company records showed that the proportion of black employees had decreased from 25 per cent to 10 per cent in the year preceeding the complaint. All of these factors helped to substantiate the allegations.

In conciliation, the complainant said he did not wish to return to work for the company. The respondent agreed to compensate him for lost wages in the amount of $6,500, and provided the Commission with written assurances of its non-discriminatory policy.

*****

The complainant, a white Canadian-born male, had been employed as a waiter in a hotel for seven months. In his complaint, he alleged that he was laid off while a less-qualified Filipino waiter with less seniority was kept on, his hours were reduced after

and that the subject matter of the allegations was vexatious and made in bad faith. Both parties received written reasons for this decision.

Sex, Sexual Harassment and Marital Status

A married woman was employed as an assistant manager in a large office. She alleged that her male counterparts were earning more than she was, despite the fact that their experience and length of service were similar to hers. She claimed that when she discussed the disparity with the manager, she was told that there was no need for her to be working in any event because her husband had a good income. She filed a complaint alleging discrimination in employment because of sex and marital status.

The investigation yielded evidence that there was an unexplained differential in the salaries paid to male and female employees in senior positions. In conciliation, the respondent agreed to compensate the complainant in the amount of $4,250 representing earnings lost due to discrimination. In addition, the company agreed to revise its salary scales to ensure that employees are paid on the basis of ability and merit, without regard to sex or marital status.

*****

The complainant had worked in production for the respondent company since 1979, and was promoted to lead hand in 1982. She alleged that she was demoted to production several months later, with the explanation that there was a shortage of work in the department. She was subsequently successful in a competition for a promotion, but alleged that she received inadequate training in this position, and was reassigned to production. She further claimed that women were excluded from certain jobs in the company. Her complaint alleged discrimination in employment on the basis of sex.

The investigation revealed that there were separate job classifications and lines of progression for male and female employees in two areas of the plant. In periods of lay-off, women were not able to bump male workers with less seniority from certain jobs and it was confirmed that women were excluded altogether from two other positions in the company. The investigation yielded evidence in support of the allegations.

Interviews with other employees disclosed the fact that the complainant had received less training than her male counterparts. Had the complainant received this training, she would probably have remained in this position on the basis of her seniority and experience. She would then have been able to bump male co-workers with less seniority.

In conciliation, the respondent agreed to place the complainant in the next available position in the department to which she had been promoted, and to remove all restrictions affecting women in positions at the company. In future, all employees will be assigned to jobs in accordance with the master seniority list, without regard to their sex.

A clerical worker for a department store alleged that she was sexually harassed by her supervisor, and, that as a result of reporting these incidents to management, she was passed over for a supervisory position in the same department by a less qualified candidate. She further alleged that her services were terminated several weeks after the harassment had occurred. She filed a complaint alleging harassment and discrimination in employment because of sex.

During the Fact Finding Conference, the respondent claimed that the complainant had been dismissed because of poor work performance. Because an agreement on the issues in dispute could not be reached, an extended investigation of the complaint was conducted.

Two other employees indicated that they had similarly been subjected to unwelcome advances by the supervisor. An examination of company records revealed that the complainant's qualifications for the supervisory position were superior to those of the successful candidate, and job performance appraisals indicated that her work record was unblemished. The weight of the evidence supported the allegations of discrimination.

These findings were reviewed with the parties, and, in conciliation, the following settlement was agreed upon:

- The complainant's dismissal was revoked and she was reinstated with full seniority and benefits;

- the complainant was compensated in the amount of $2,650, representing earnings lost during the period prior to her reinstatement and damages for insult to her dignity.

*****

The complainant began her employment with a large manufacturing firm as a junior secretary in 1976. She alleged that she was promoted to the position of executive secretary to the company's vice-president in 1983. She claimed that her new employer subjected her to sexual advances and solicitations despite the fact that she made it clear to him that this conduct was unwelcome. She further alleged that when she brought the situation to the attention of the president, no action was taken to correct the problem. She resigned her position when her efforts to deal with the problem failed, and filed a complaint alleging harassment in the workplace because of sex.

During the Fact Finding Conference, the respondent did not dispute the complainant's account of the events that had occurred and her efforts to seek redress. The company and the personal respondent indicated their willingness to endeavour to effect a settlement of the complaint.

Accordingly, the complainant received monetary compensation in the amount of $6,000, representing earnings lost due to discrimination and damages for mental anguish. The employer agreed to issue a management directive to all staff, probibiting sexual harassment of employees.

The complainant alleged that she was hired in 1981 as a junior auditor in a large manufacturing company, but was dismissed two days later by the general manager because he did not want women working on the night shift. When the complainant advised the general manager that she had approached the Commission about the matter, she was immediately rehired.

From then on, the complainant believed that she was evaluated and treated more harshly than male employees in the Audit Department, and she claimed that she received reprimands for conduct that went unnoticed among the male staff members. She further alleged that when she and a number of junior male auditors were promoted, she was the only one in the group not to receive a raise.

Several months later, the complainant was dismissed on the grounds of poor work performance. She claimed, however, that she had been told that she was well-liked by clients and co-workers alike, and that she had never received warnings about her work record. She filed a complaint alleging discrimination in employment because of sex.

During the investigation, the respondent supplied documentation that revealed financial errors for which the complainant was responsible. The evidence also indicated that all staff members were reprimanded for actions that were contrary to company policy. In addition, payroll records showed that the male auditors who were promoted with the complainant did not receive pay increases because all salaries had been frozen until organizational changes were made. The respondent did not dispute the fact that the complainant was well-liked by members of staff and the public.

When conciliation efforts failed to achieve a settlement the Commission reviewed the complaint. The case was dismissed and both parties were informed that the evidence showed that the complainant's sex was not a factor in the employer's treatment of her, and that the terms and conditions of employment were the same for both men and women.

Handicap

The complainant alleged that when he was hired as a part-time baker, he was informed that he would be considered for full-time employment if he were given a clean bill of health by the company physician. The medical report indicated that he had a slight hearing impairment. The complainant claimed that he then sought the opinion of a hearing specialist to whom he was referred to by his family doctor. The specialist indicated that his hearing was within normal range, but the company did not consider the second opinion and kept the complainant on part-time employment. The man's complaint alleged discrimination in employment because of handicap.

During the Fact Finding Conference, the employer stated that it was the company's policy not to consider anyone for permanent full-time employment whose health was considered to be poor in any way. The company acknowledged receipt of the independent medical report, but did not take it into consideration. These factors supported the allegations.

As a means of settling the complaint, the following proposals were agreed to by all parties:

- Because the complainant was successful in the test, he was placed in full-time employment at the respondent

company within one week of the Fact Finding Conference, subject to demonstrating the ability to perform the essential duties and requirements of the job;

- the complainant received $1,600 in compensation for lost wages;

- the complainant agreed to a job-related test by an audiologist at the Canadian Hearing Society prior to placement in full-time employment. The results of the test were to be communicated to the company;

- the company agreed to revise its policies and procedures with regard to medical examinations, to ensure that they are directly related to an applicant's ability to perform the essential duties of the job.

*****

The complainant was hired as a warehouse worker, and after a pre-employment medical he was advised by the company doctor that he had hypo-thyroidism. The complainant alleged that he made an appointment with a specialist in internal medicine, but before he could keep it, he was dismissed because of his medical condition. The employer felt that the condition placed him at risk, despite advice that he had never experienced any health problems.

Following the specialist's examination several days later, the complainant was advised that he would have to take medication for the rest of his life, but that his condition would not interfere with his performing any kind of job, including the one in question. The complainant telephoned the employer to advise him of this fact, but he was told that his services were no longer required.

The man filed a complaint alleging discrimination in employment because of handicap.

During the Fact Finding Conference, the respondent admitted unintentionally discriminating against the complainant. In conciliation, the following proposals were agreed to by the parties:

- Reinstatement of the complainant effective in four months at the same salary and seniority;

- monetary compensation in the amount of $5,000 to cover lost wages from the date of dismissal until reinstatement;

- a letter of apology to the complainant and written assurances to the Commission of the company's non-discrimination policy;

- the employer would not allow the complainant's present handicap to be a factor in considering him for any future positions with the company;

- the complainant agreed to assume full responsibility for his handicap by taking his medication daily;

- the complainant's personnel file would be cleared of any reference to the complaint.

*****

The complainant alleged that he was denied a position as a dishwasher because he had a fused hip and used a cane, despite his claim that he was able to perform the job. He filed a complaint alleging discrimination in employment because of handicap.

During investigation, the job description of dishwasher was reviewed and staff of the respondent were observed performing in the job. The evidence indicated that the job required the ability to lift and carry 25-kilogram weights and to stand for eight hours at a time under hot and physically demanding conditions. The evidence established that the complainant would be unable to perform the job.

When a settlement could not be achieved in conciliation, the case was reviewed by the Commission. It was decided to dismiss the complainant, and the parties were provided with the following reasons:

- The evidence indicated that the complainant's handicap and reliance on a cane rendered him unable to perform the essential duties of the position.

Age

A 56-year-old woman alleged that she was hired as a labourer in 1947 and had progressed to head shipper about 10 years before filing her complaint. She stated that she had received no criticisms regarding her work performance. She alleged that a new manager had made it known that he wished to get rid of the older employees and bring in some "new blood". Shortly after he began at the company, three older employees were released.

In her complaint, the woman alleged that the manager told her that she was laid off because of a reduction of staff in her department. She claims that her position was filled by a younger man who had worked part-time for the company.

Of 10 employees interviewed during investigation, seven stated that they had knowledge of the manager's wish to release older employees. It was confirmed that the younger part-time employee was told about his promotion the day after the complainant was released. An examination of company records revealed that by the time of the complainant's lay-off, business had increased some 75 per cent over the previous year. This evidence substantiated the allegations of the complaint.

During conciliation, the vice-president of the company stated that he had no knowledge of the managerial cut-back. He said that had he been consulted about the complainant's release, he would have objected to it in view of her length of service and good work performance.

As settlement, the respondent agreed to:

- Compensate the complainant in the amount of $9,500 for earnings lost and insult to her dignity, post Code cards on the business premises, and provide the Commission with written assurances of its policy of non-discrimination.

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A 56-year-old accountant alleged that he had begun his employment with the respondent in 1975. He alleged that in 1983, the company changed ownership, and shortly thereafter, a new management team reassigned several older workers to less responsible duties in the company and replaced them with younger men. Several months later, the complainant was dismissed, with the explanation that the Accounts Department was undergoing reorganization. He filed a complaint alleging discrimination in employment because of age.

The investigation revealed evidence that six members of the administrative staff had either been demoted or released since the new management had taken over the company. Five of them were over 50 years of age, and all had had good work records. The complainant's position was filled by a 39-year-old male, whose duties were only slightly different from those of the man he replaced. These factors supported the allegations.

In conciliation, the following settlement was reached among the parties:

- The complainant would be compensated in the amount of $2,000 representing $1,200 for earnings lost due to discrimination and $800 for insult to his dignity;

- management employees of the respondent company would participate in a human rights seminar conducted by the Commission;

- a policy of non-discrimination in employment practices would be issued to all employees;

- Human Rights Code cards would be posted on the business premises.

Record of Offences

The complainant alleged that he was refused employment as a sales representative of a manufacturing firm because he had a record of offences, for which he had been pardoned. His complaint also stated that he was required to complete an employment application form on which inquiries were made as to whether the applicant had a record of offences and whether he was bondable.

The investigation revealed that an insurance company had agreed to bond the complainant and that he was qualified for the position in question. There was no evidence to indicate that the complainant's record of offences was a reasonable and bona fide qualification because of the nature of the position.

During conciliation the employer agreed to offer the complainant the next available position for which he qualified and to compensate him in the amount of $800 for earnings lost as a result of discrimination. In addition, the respondent amended its application form to ensure that it complied with the provisions of the Code.

Creed

The complainant alleged that a trade publication catering to medical practitioners discriminated on the basis of creed by publishing two employment advertisements seeking Christian applicants for positions in a clinic.

Both the magazine and the advertiser were informed that the advertisements contravened section 22(1) of the Code, which provides that the right to equal treatment with respect to employment is infringed where an advertisement for employment is published or displayed that directly classifies or indicates qualifications by a prohibited ground of discrimination.

The investigation disclosed no indication that creed was a reasonable and bona fide qualification because of the nature of the employment.

The employer agreed to discontinue the advertisements and the publication notified the Commission that new procedures were being instituted regarding the acceptance and screening of classified advertising. In addition the magazine published an apology and a statement of its policy regarding advertising in its next edition.

Reprisal

A woman of Italian descent alleged discrimination in employment on the basis of her ethnic origin. She later filed an additional complaint alleging that the employer had terminated her services on learning that she had filed the first complaint.

It was established during the Fact Finding Conference that the complainant's employer had told her to withdraw the first complaint. She alleged that on the day that it was served on him, she asked him if he was prepared to remedy the situation that resulted in the complaint. When he refused to discuss the matter, she approached the Commission. The employer then released her from the company. These factors supported the allegations.

In conciliation, the employer agreed to compensate the complainant in the amount of $650 representing one week's lost wages and damages for insult to her dignity. She did not want to be reinstated in her former job because she had found employment elsewhere. The respondent also issued a directive to managers that discrimination would not be tolerated at the company, and prohibiting reprisal action against any employee who takes part in a complaint under the Code.

ACCOMMODATION

Sex, Marital Status, Handicap, Age, Receipt of Public Assistance

A woman alleged that she and her husband, who was a student, filled out an application form for a vacant apartment. She claimed that she was told the couple

was ineligible because the husband was not the principal wage-earner, and the rent would be difficult to meet if she were to become pregnant and leave her job. Her complaint alleged discrimination in accommodation because of sex and marital status.

The investigation disclosed the fact that the couple's income of $1,400 a month was more than adequate to pay the monthly rental of $369. The manager of the building had not checked the couple's references in the town from which they had just moved because of a policy not to call out-of-town references. The building manager stated that he "rubber-stamped" the rental decisions made by the superintendent, who indicated that she was unaware of the legal provisions for maternity benefits. In addition, the application form contained questions relating to sex and marital status that contravened the Code. This evidence substantiated the allegations of the complaint.

In conciliation the parties agreed to the following terms of settlement:

- The couple received monetary compensation in the amount of $240, representing the difference between their present rent and the rental on the apartment in question over a period of six months;

- the respondent undertook to revise its application form in order that the questions would not differentiate on the basis of sex or marital status;

- the respondent provided the Commission with written assurances of its non-discriminatory policy.

Because the couple had located suitable alternative accommodation they did not seek an offer of the next available apartment in the respondent's building.

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The complainant alleged that she was refused accommodation in an apartment building because she has a guide dog. Her complaint alleged discrimination in accommodation because of handicap.

During investigation the respondent did not deny that the complainant had been refused accommodation. He claimed that she was refused a unit because there was no evidence at the time that she was blind, there was no evidence to show that the dog was a guide dog and there were no indications to show how the dog's defecation would be controlled.

The complainant provided evidence that enough information had been given to the rental agent to determine whether or not she was blind, that she did have a registered guide dog and that the guide dog would be well cared for. The evidence indicated that discrimination as alleged had occurred.

In conciliation, the respondent agreed to:

- Pay the complainant $500 in compensation for out-of-pocket expenses incurred because of discrimination, write a letter of apology to the complainant, and offer her the next available apartment in the building.

A 20-year-old man and his 19-year-old fiancée applied in person for an apartment that had been advertised. The couple alleged that they provided a cheque for the first and last months' rent. Later, they were told that their application was not successful. Upon asking why, the superintendent stated that it was because of their ages. When they approached the property manager, they were informed that there were better applicants to choose from, and a 34-year-old male had been selected. The couple filed a complaint alleging discrimination in accommodation because of age.

During the investigation, the applications of current tenants were examined and were found to be similar to those of the complainants in all material respects, such as income. It was also established that the complainants' application was rejected before the successful applicant's form was even received.

The property manager stated that he believed older applicants were more likely to have a record of stability as tenants. These factors supported the allegations.

In conciliation, the respondent agreed to place the couple in the next available apartment and to post Code cards in the apartment building.

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A couple alleged that they applied for an apartment, and supplied evidence to the superintendent that their combined social assistance benefits would more than cover their rent and expenses. They stated that they were seeking accommodation because their landlord was converting their present apartment to his own use. After consulting with the owner of the building, the superintendent informed the couple that they did not qualify for the apartment because they were unemployed. Their complaint alleged discrimination in accommodation because of receipt of public assistance.

The investigation revealed that the couple had a good record as tenants and were able to meet the rental payments. During conciliation, the landlord was informed that a policy to exclude unemployed applicants has an adverse impact on persons receiving public assistance, even though this might not have been intended by management.

The landlord agreed to compensate the complainants in the amount of $400 to cover their moving expenses and damages for insult to their dignity. As further settlement of the complaint, the landlord agreed to offer the couple the next available apartment in the building and to write them a letter of apology. Written assurances of an intent to comply with provisions of the Code were provided to the Commission, and Code cards were posted on the premises.

GOODS, SERVICES AND FACILITIES

Race, Colour, Ethnic Origin, Handicap

The complainant, a woman originally from Pakistan, was one of 12 students in a registered nursing assistant course. She alleged that the instructor treated the seven immigrant and non-white students in a discriminatory manner by ignoring the questions they raised in class and failing to explain material adequately when they

sought assistance. She claimed that when she and several of the other students approached the course director about the problem, they were told that they were "too sensitive", and unable to accept criticism.

During the investigation, other students in the course indicated that they felt the complainant and several other non-white immigrants were not given the same kind of positive support, encouragement and opportunity to succeed as was given the white students who had been fully educated in Canada. It was also learned that the immigrant students were disciplined for not handing in assignments on time, while their counterparts were not. The weight of the evidence supported the allegations.

During conciliation, the complainant informed the teacher and the course director that she had found employment and would be leaving the school. She stated that she only sought a face-to-face verbal apology from the teacher for the humiliation she had suffered. Both the teacher and course director apologized to the complainant, and provided both the complainant and Commission with assurances that all students would be treated equally and with respect, without regard to race or ethnic origin.

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A black woman entered a clothing boutique and asked to try on a dress. She alleged that the store owner told her she would have to pay $150 before being allowed to try it on. The complainant protested and asked if everyone had to pay before trying on a dress. The owner allegedly replied that she only did this when dealing with the complainant's "type". The owner then related a previous incident involving a black woman who had put oil on her body before trying on a dress and damaged it. The complainant became upset at the insinuation that she would damage the dress, and started to cry. The respondent owner called security and had her removed from the store. She filed a complaint with the Commission alleging discrimination in goods, services and facilities because of race and colour.

The respondent did not dispute these allegations during the Fact Finding Conference. She also admitted that on the day of the incident, other customers had been allowed to try on dresses without first paying money. Although the respondent denied that she treated the complainant in that fashion because of her race and colour, she was not able to provide any satisfactory alternative explanation as to why she had treated the complainant that way.

In conciliation, the respondent agreed to provide the complainant with a letter of apology, allow her to choose a dress of $150 value, and to write a letter to the Commission containing assurances of her non-discriminatory policy.

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A Native Indian woman alleged that she was harassed, while shopping, by an employee of a department store. In the complaint she filed with the Commission, she alleged that the employee called her a racially derogatory name and looked through her shopping bag. She claimed that she reported the incident to the manager, but he refused to resolve the matter. Her complaint alleged discrimination in services, goods and facilities because of race, colour and ancestry.

During the Fact Finding Conference, the manager acknowledged that the store employee had harassed the complainant, and that he had had no reason to suspect

that she had stolen goods from the store. The evidence substantiated the allegations of the complaint.

In conciliation, the parties agreed to the following terms of settlement:

- A human rights seminar was arranged for management employees of the store;

- the manager issued a written warning to the employee in question that further evidence of racially motivated harassment would result in his dismissal;

- a letter of apology was sent to the complainant;

- the respondent placed Code cards on the premises and provided written assurances to the Commission of its non-discriminatory policy.

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A mentally retarded resident of a Group Home alleged that when he and a friend visited a tavern and dining lounge, they were told that they could only sit in the dining area of the restaurant. When he questioned the policy, he claimed that he was informed that, in the past, another resident of the Group Home had become intoxicated and caused a disturbance in the lounge. As a result, no residents of the Group Home could be served drinks there. His complaint alleged discrimination in goods, services and facilities because of handicap.

During investigation, the allegations were confirmed. The manager stated that the policy had been in effect for a year, and that the residents of the Group Home had not objected to it.

The conciliation meeting was attended by both the complainant and respondent, as well as a member of the District Association for the Mentally Retarded and a counsellor from the Group Home. The importance of the ability of handicapped persons to function normally in the community was discussed, and the counsellor indicated that the residents of the Group Home were capable of handling themselves responsibly in social situations. The respondent admitted that he had applied a negative stereotype about disruptive behaviour to the complainant and his friend. He stated that he wanted to engage in a continuing dialogue with representatives of the Association and staff of the Group Home so that further problems could be avoided. In settlement, it was agreed that the complainant and other residents of the Group Home would be served in any area of the restaurant without discriminatory treatment, and with no restrictions other than those applying to all patrons under the Liquor Licence Act. In addition, staff of the Group Home and the Association would advise the respondent in the event that a resident should not be served alcoholic beverages because of an incompatibility with medication or behavioural problems.

DECISIONS OF BOARDS OF INQUIRY

1983/84

EMPLOYMENT

Race, Colour, Nationality, Ancestry, Place of Origin

Ahluwalia and Metropolitan Toronto Board of Commissioners of Police and Inspector W. Dickson

Mr. Ahluwalia, a police constable originally from India, alleged that he was subjected to racial name-calling by his fellow police officers, was refused reclassification and finally dismissed because of his race, colour, nationality, ancestry and place of origin.

Testimony at the hearing revealed that pervasive name-calling among constables was commonplace. "It is clear that the sergeants knew of it, and while they did not indulge in name-calling or approve of it being used in a derogatory context, they did nothing to stop it," the board chairman stated. The board pointed out that it is not enough simply to take refuge in a paper policy of racial tolerance; there must be a reasonable monitoring of such a policy, with discipline procedures undertaken for known violations.

The board was persuaded by the evidence of Dr. Granville A. DaCosta, a psychiatrist with expertise in the effects of racism on the adaptation of immigrant groups to Canadian society.

Dr. DaCosta testified that, given the sociological perceptions of names such as "Paki" and "Nigger," name-calling is necessarily injurious, unless the parties tacitly agree to use the names in a relationship of mutual respect. No such tacit agreement existed between Mr. Ahluwalia and other officers.

During his testimony, Dr. DaCosta described name-calling as a process through which its victim is assigned a lower status in an inferior-superior type of relationship. Where a working atmosphere of name-calling is socially reinforced by others, its harmful impact on the victim's self-esteem and equal participation in the work group is strengthened.

The board chairman stated that name-calling can never be characterized as casual interplay or shop-talk, due to its harmful effects on its victims.

While not all name-callers consciously intend to hurt their victims, name-calling may represent an antagonistic behaviour that is in the guise of fraternal, joking behaviour. The derogatory label controls the status of the person named, by evoking the myths, negative stereotypes and value judgements that are inherent in the label.

However, although the name-calling constituted racial harassment, this was not a key factor in Mr. Ahluwalia's not performing his job up to the required standard. The board of inquiry found on the evidence that the complainant was not reclassified and was eventually dismissed because of unreliable and incompetent work performance. Accordingly, these allegations were dismissed.

With respect to the finding of racial name-calling amongst police officers, the inquiry chairman ordered the respondent to do whatever is reasonably necessary to eliminate it. As one means of achieving this objective, the respondent was ordered to establish an ad hoc race relations sensitization program to be designed, conducted and delivered in conjunction with the Ontario Human Rights Commission. This program is now being carried out.

Almeida and Chubb Fire Security Division of Chubb Industries Ltd.

Mr. Almeida, who had been employed by the respondent as assistant controller for six years, alleged that the company had engaged in discriminatory acts by failing to promote and ultimatley by dismissing him because of race, colour, nationality, ancestry and place of origin. The complainant is of East Indian ancestry and was born in Tanzania.

During the hearing, the complainant testified that four new controllers were hired by the respondent. In each instance, a white male was appointed to the position despite the fact that the complainant believed that he was well-qualified to assume the post. The respondent, on the other hand, testified that Mr. Almeida's performance as assistant controller did not warrant promotion to controller, and that his performance deteriorated significantly during the latter period of his service.

The board heard evidence that Mr. Almeida had undertaken many extra duties and responsibilities during the periods when the controller position was vacant, and management employees testified that he had performed them admirably.

Several executives of the company provided reasons for their decisions not to promote the complainant on the four occasions when a replacement was sought for the controller position. The board concluded that there was no evidence introduced at the hearing that would substantiate the defences offered by the respondent.

Moreover, the board chairman heard testimony that indicated, in his view, that a number of middle management employees, who had some responsibility for making employment decisions, had formed the opinion that additional hirings of non-whites would not be viewed favourably by some of the senior managers. The board found that discriminatory considerations had had a role in the decision-making process that led to the appointments of three of the four controllers hired during the complainant's period of employment.

With respect to the first such appointment, which was made shortly after Mr. Almeida began with the company, the board concluded that there is some likelihood that he would have been rejected on the ground that he had not yet completed his degree in Registered Industrial Accounting.

The board then addressed the allegations of discriminatory dismissal, which took place several months after the appointment of the fourth new controller. The board found that the complainant's attitude towards his employer and towards his work had deteriorated after the decision was taken to appoint the new controller, and the chairman stated, "Mr. Almeida was evidently very frustrated at his lack of success and had apparently finally resolved that he would no longer fully cooperate with the incumbents of the controller position." The board concluded that the dismissal was not based on discriminatory considerations.

Having found a breach of the Code, the board ordered the following:

- The respondent is liable to pay to the complainant forthwith an amount representing the difference between the salary received by Mr. Almeida for the period from the appointment of Mr. Bartlett as controller in March of 1976 to the appointment of Mr. Horner as controller in September of 1978 and the salary he would have received if he had been at the rate paid to incumbents of the position of controller of the respondent during this period.

The board remained seized of jurisdiction in the matter for 60 days to dispose of any other difficulties that might arise in the implementation of the order.

Foster and the Queen Elizabeth Hospital

After two months of employment as a cleaner, Mrs. Foster alleged that she was dismissed from her employment in July 1978 because of her race and colour. She filed a complaint with the Commission, and the matter was settled in conciliation when the respondent agreed to reinstate Mrs. Foster in her former position.

Mrs. Foster later alleged that she was released by the hospital after eight months in the position, because she had made a complaint under the Code in connection with her first dismissal.

During the hearing, Mrs. Foster's former supervisor denied her allegation that he had told her that she was dismissed because she had filed a complaint against the hospital. Witnesses for the respondent then provided as evidence personnel records indicating that the complainant's work performance had been called into question on five occasions. However, Mrs. Foster testified that she had never received complaints about her work.

The board found that the complainant's inadequate work performance was the basis for the hospital's decision to terminate her services. The board chairman observed, however, that her employer did not give Mrs. Foster verbal or written notices of unsatisfactory work, nor did he follow a system of progressive discipline: "I agree with counsel for the complainant and Commission that Mrs. Foster's dismissal (by the hospital) was abrupt, sudden and without prior notice." The complaint was dismissed.

Mears, Walker, Wills, Trotman, Atherly, Telphia, Francis and Ontario Hydro, Watson, Watkiss, Ouellette, Loveness

The complaints were filed by seven black workers following the layoff of 23 employees by Ontario Hydro from the construction of the South Pickering Nuclear Plant. Eight of the 23 employees were black, and the seven complainants alleged discrimination in employment because of race, colour, ancestry or place of origin.

The issues addressed by the board of inquiry were whether the implementation of the layoff system used by Ontario Hydro contravened the Code, and whether and to what extent Ontario Hydro is responsible for any discrimination that may be proven against its foremen or management at the South Pickering Plant.

The evidence indicated that the seven complainants, and an additional white employee who was laid off, had been members of crews headed by Messrs. Watson, Watkiss, Ouellette and Loveness. Four of the complainants were working on the Watson crew at the time of the layoff.

During the hearing, a number of witnesses testified that five of the complainants had superior work records to some of the white employees who were not laid off, and four of the complainants claimed that Mr. Watson had revealed negative prejudices and stereotypes regarding black workers in his dealings with them. Witnesses for the respondents testified that there were problems with the work performance of three of the complainants.

Management employees testified that the standard procedure for the implementation of layoffs is for each foreman to rank the members of his crew. The board observed, however, that each of the witnesses who testified for Ontario Hydro gave varying criteria that they believed had been used by the foremen in their rankings. Evidence also indicated that the foremen kept no written records about the productivity or quality of work of their crew members, and did not use objective, standardized criteria to assess their members on a day-to-day basis.

The board concluded on the basis of the evidence that the layoff of 23 employees was motivated by financial circumstances. However, the chairman found that Mr. Watson had a considerable amount of discretion and influence with respect to the layoffs of complainants Mears, Trotman, Walker and Wills. The board concluded that there is ample evidence that discrimination against blacks was an aspect of Mr. Watson's assessment of the four complainants at the time of the layoffs, and that his previous actions towards these employees indicated a discriminatory attitude towards black persons.

In addition, the board chairman stated that, "Ontario Hydro must assume responsibility for the actions of its foremen and superintendents at South Pickering, because of both the authority it vested in these employees and the ineffective personnel policies that were in force at South Pickering. I also hold Ontario Hydro directly responsible for the discrimination against these complainants."

The board found insufficient evidence to prove that discrimination was an aspect of the ranking or layoff of complainants Telphia, Atherly or Francis.

Having found that discrimination had occurred the respondents were jointly and severally ordered by the board to compensate the complainants as follows:

Wills: $9,129.60 in compensation for lost wages, general damages and interest.

Mears: $9,129.60 in compensation for lost wages, general damages and interest.

Walker: $4,392.00 in compensation for lost wages, general damages and interest.

Trotman: $4,392.00 in compensation for lost wages, general damages and interest.

The respondent was also ordered to post copies of the Human Rights Code in conspicuous locations at the South Pickering Nuclear Plant. The respondents have filed a notice of appeal from the decision and order in the Supreme Court of Ontario, Divisional Court.

Ontario Human Rights Commission and Cyrville Taxi

A complaint was initiated by the Commission against the company in response to a newspaper survey that alleged that the respondent, along with a number of taxi-cab companies, was willing to comply with customers' requests for a white driver. The complaint alleged discrimination by Cyrville Taxi against its taxi-drivers because of race, colour, ancestry and ethnic origin.

Because the respondent did not cooperate with the Commission's attempts to investigate the allegations, the Commission sought the appointment of a board of inquiry under section 32 of the Code, which provides that if a respondent impedes or prevents an investigation, the Commission may request a board of inquiry.

The board concluded, on the basis of the evidence before it, that no rights under the Code had been infringed. However, the board chairman stated, "It is important to emphasize that this result should not be erroneously interpreted as condoning, in any way, the practice of consenting to requests by potential customers for drivers of a certain colour or ethnic origin. Customer preference is entirely irrelevant in assessing conduct which might be in contravention of the Code."

Watson and Highway Trailers of Canada Ltd., Smith

Mr. Watson's complaint alleged that he had been dismissed from his employment on the 49th day of his 50-day probationary period because of his race, colour, nationality, ancestry or place or origin. He is a black man originally from Jamaica. The complainant claimed that the company's manager, Mr. Smith, had stated that he was not interested in keeping blacks in his employ.

Evidence introduced at the hearing indicated to the board of inquiry that it was not an uncommon practice at the company to dismiss workers late in the probationary period, and that this decision had been made with respect to employees of all racial groups. Witnesses for the respondent testified that the complainant was the only non-white employee whom Mr. Smith had dismissed during his employment at Highway Trailers. In addition, Mr. Smith denied having made the comment about black workers, and claimed that Mr. Watson had been released because of poor work performance.

Nor did the evidence reveal an under-representation of non-whites in the respondent's work force, in the view of the board. However, the board was persuaded by the testimony of the complainant and two other non-white employees that Mr. Smith and another member of management had made several remarks of a racial nature that might well have led the complainant to believe that management was biased against blacks. The board concluded that such incidents were infrequent, and decided that the general thrust of the evidence indicated that the complainant had not been subjected to discriminatory treatment by his employers.

The board found, on the basis of the totality of the evidence, that the complainant's work performance was perceived to be unsatisfactory by the company's management, and that his dismissal appears to have been based on these considerations alone. The complaint was dismissed.

Sex, Sexual Harassment

Benel, Biljak, Estrada, Mejia, Munoz, Olarte and Commodore Business Machines Ltd., De Filippis

Six female employees at the Warden Avenue plant of the respondent company alleged that they had been sexually harassed by their foreman, Mr. DeFilippis, while working on the evening shift. Their complaints alleged that the foreman's conduct was carried out with the knowledge and acquiescence of the corporate respondent.

In addition, two of the complainants alleged that their employment was terminated because they had indicated their intention to make complaints under the Code. Five of the complainants claimed that they were dismissed or compelled to resign because of the harassment and their refusal to accept the foreman's advances.

In giving testimony at the hearing, witnesses for the respondents alleged a conspiracy on the part of the complainants to fabricate an account of harassment by Mr. DeFilippis against them.

The board heard evidence that the complainants worked the 4:00 p.m. to 12:30 a.m. shift and were supervised by the individual respondent, who was in charge of the plant during the evening hours. The complainants testified that Mr. DeFilippis persisted in his conduct despite their initial and continuing forcefully-stated objections to it.

The evidence of the complainants was corroborated by the similar fact evidence of five female witnesses. Male employees of the Warden Avenue plant provided further evidence in support of the allegations.

In addition, four female workers at the company's Pharmacy Avenue plant testified that the individual respondent made sexual advances towards them during a period when he was employed as a foreman there. The board concluded that no conspiracy took place among the complainants, on the basis of totality of the evidence. Moreover, the board chairman observed that none of the witnesses from the Pharmacy Avenue plant knew the complainants, nor had any knowledge of Spanish, which was the complainants' mother tongue.

The board chairman found that the individual respondent had contravened the Code, and he stated: "It is clear that Mr. DeFilippis tried to intimidate and manipulate the female workers he desired sexually. He was in a position, as he knew, of being able able to hire very dependent, immigrant female workers whom he could seek to take sexual advantage of."

The board found that the company did not know about the harassment of the complainants by the foreman. However, the board found that because the foreman's conduct arose in the course of acting as an agent of the company in the carrying on of its business, the company was itself liable for the harassment of the complainants. In providing a function of management as a foreman, Mr. DeFilippis was part of the "directing mind" of the corporation.

Although the board chairman concluded that no member of senior mangement personally condoned or acquiesced in the foreman's sexual harassment of the complainants, he found that where the employer is a corporate entity and an employee is part of its "directing mind," then the corporation is itself personally liable for the breaches of the Code by its employee.

Having found that discrimination had occurred, the respondents were jointly and severally ordered by the board to pay damages to the complainants, as follows:

Olarte: $2,324 in compensation for lost wages, general damages and interest.

Biljak: $2,800 in compensation for general damages and interest.

Estrada: $2,800 in compensation for general damages and interest.

Munoz: $3,696 in compensation for lost wages, general wages and interest.

Benel: $3,696 in compensation for lost wages, general damages and interest.

Mejia: $6,496 in compensation for lost wages, general damages and interest.

The individual respondent was ordered to cease and desist in the sexual harassment of female employees of the company, and the corporate respondent was ordered to do whatever is necessary to ensure that Mr. DeFilippis ceases and desists in such harassment. The decision and order of the board of inquiry is being appealed by the respondents to the Supreme Court of Ontario, Divisional Court.

Fullerton and Davey C's, Zantav Ltd., Relph

Ms. Fullerton alleged that after six weeks of employment as a waitress, she was dismissed because of her refusal to respond to the sexual advances of her employer, Mr. Relph, Assistant Manager of Davey C's. Her complaint alleged that she willingly accepted Mr. Relph's invitation for dinner two weeks after beginning her employment, but that this event led to a series of efforts on his part to develop an ongoing relationship with her against her wishes. She further claimed that he made attempts at sexual contact during working hours.

Mr. Relph denied the allegations in his testimony at the hearing. Several supervisory employees of the respondent stated that they had had concerns about the complainant's demeanour and attire, which were brought to her attention. The General Manager testified that he decided to release Ms. Fullerton because he believed her to be unsuitable for the position. He also stated, and the board accepted, that the General Manager was unaware of the relationship between Ms. Fullerton and Mr. Relph.

The board found that the corporate respondent's decision regarding the complainant's employment was unrelated to her sex or to Mr. Relph's alleged interest in her, nor did the evidence indicate that sexual harassment had occurred. The board chairman stated that in establishing proof of such conduct, a distinction must be made between an advance of a personal nature and sexual harassment that has become a condition of employment, and concluded that there was insufficient evidence to show that Mr. Relph treated the complainant in a fashion that went beyond that of a reasonable social involvement.

The board observed, however, that Ms. Fullerton was treated in an unprofessional manner by the management of Davey C's. "She was at no time told what the problems were with her appearance or service, and consequently she was never given the opportunity to improve herself. She received inadequate reasons for her dismissal," the board chairman stated. The complaint was dismissed.

Giouvenoudis and the Golden Fleece Restaurant & Tavern Ltd., Carras

Ms. Giouvanandis alleged sexual harassment on the part of her employer, Mr. Carras, during her first day on the job as a waitress. She claimed that when she refused his advances, he dismissed her.

Five former employees testified at the hearing that they had experienced unwelcome sexual advances from the same employer, and had suffered negative employment consequences for rejecting these advances. Two other witnesses, who had worked as waitresses after the complainant, told the board that they had not been harassed by Mr. Carras, and the board concluded that this was due to the fact that their employment came after the complaint under the Code and the Commission's investigation. The board chairman stated, "The realization that the complaint was being investigated and would be pursued to a conclusion caused Mr. Carras to reform his ways with his employees."

Having found that sexual harassment had occurred, the board ordered the respondents to compensate the complainant in the amount of $750 for mental anguish and $250 for lost wages. The corporate respondent was ordered to do whatever is necessary to ensure that Mr. Carras ceases and desists in the sexual harassment of female employees.

Graesser and Porto

Ms. Graesser, a high school student, alleged that she was hired in a clerical position by Mr. Porto for the summer months. On her third day in the job, she claimed that her employer made verbal and physical sexual advances towards her, despite her efforts to convince him that the harassment was unwelcome. At the end of the day, she telephoned the Student Manpower Office and related her experience. She was advised to contact the Commission, and did so on the following day. She also telephoned Mr. Porto and resigned from her position.

During the hearing, a former employee testified that she had also been subjected to sexual harassment by Mr. Porto. The board of inquiry found this information to be relevant to the allegations, and declared it to be suggestive of a pattern of behaviour on the respondent's part. The board chairman noted that the complainant and this witness had never met, and had not discussed the matter.

The board found that the sexual advances had occurred, and were the cause of the termination of the complainant's employment. The respondent was ordered to compensate Ms. Graesser in the amount of $375 in compensation for lost earnings, $750 as damages for mental anguish, and to write her a letter of apology.

Pachouris and St. Vito Italian Foods, Patera

Ms. Pachouris alleged that she had been subjected to sexual harassment in the workplace by her employer during the two weeks of her employment as a waitress. She also alleged that she resigned from the position because her employer persisted in his verbal and physical advances.

The board concluded, on the basis of the evidence, that the Commission and the complainant had not discharged the onus of establising the allegations made in the complaint.

Witnesses for the respondents, including other female employees, testified that they had not observed or experienced any sexual harassment by Mr. Patera. Several witnesses indicated that the working atmosphere was one in which vulgar comments and jokes were frequently exchanged among the employees and their employer, and claimed that the complainant had never objected to these remarks.

The complaint was therefore dismissed.

Winterburn and Lou's Place, Nadlin, Sheppard

Ms. Winterburn alleged that she was laid off her employment as a bartender after three months on the job and that she reapplied for the same position, which was advertised two weeks later, and was refused. Her complaint alleged discrimination in employment on the grounds of sex.

Several witnesses of the respondent testified during the hearing that a number of employees had been subject to layoff because of financial difficulties in the company. However, the complainant indicated that while other employees were given reduced hours, she was told that she must either be released or take a position as a waitress. She said that she did not take this offer seriously, because the waitressing position required wearing a revealing uniform, and she was in an advanced state of pregnancy at the time. She also alleged that her employer informed her that her pregnancy precluded working part-time as a bartender.

This allegation was denied by the respondent, who also indicated that a number of alternative positions were offered to Ms. Winterburn.

The respondent provided evidence that the advertisement which Ms. Winterburn responded to had been published in error, and the position had never been filled. The board accepted this evidence.

The board then addressed the issue of whether Ms. Winterburn's pregnancy was a factor in the respondent's treatment of her. The chairman held that refusal of employment or dismissal on the basis of pregnancy constitutes discrimination on the grounds of sex. However, in the present case, the board found that shortage of work for a full-time bartender was the basis for the complainant's layoff. In addition, there was evidence, in the opinion of the board, that Ms. Winterburn had been offered several employment alternatives, which she refused. The complaint was dismissed.

HOUSING

Race Colour Nationality, Ancestry, Place of Origin

Baldwin and Soobiah

Mr. Baldwin, a black man originally from Trinidad, alleged that his wife, who is of Belgian origin, telephoned in response to an advertisement for an apartment at a rental of $300 per month. The couple viewed the premises at the invitation of the landlady and claimed that they were told that the rental amount was printed in error and the correct figure was $350 per month. The landlady said she would telephone Mrs. Baldwin the following day after she had verified the advertisement.

The Baldwins claimed that the landlady then informed them that the $300.00 was a misprint, and that in any event, she had just rented the apartment to another couple for $350. The complainant then asked a friend with a Canadian accent to telephone the landlady and inquire about the vacancy. The friend was told that the apartment was still available at $300 a month. Immediately thereafter, a Trinidadian friend called with the same inquiry, but was told that the apartment was taken. A third caller, with a Canadian accent, then telephoned and was told the apartment was still for rent. The next day, Mr. Baldwin filed a complaint with the Commission alleging discrimination in accommodation because of race, colour, place of origin and nationality.

During the hearing, several witnesses provided evidence to establish in the view of the board, a prima facie case of an intention by the respondent to discriminate against the complainant in refusing to rent the apartment to him because of the grounds alleged.

The respondent testified, however, that she was not at home when the three telephone inquiries were made, and she could offer no explanation of who had answered these calls. She further claimed that she rented the apartment on the day after the Baldwin couple's visit, for $350 per month.

The board chairman found aspects of the respondent's testimony that raised doubts about its credibility, and stated, "We are left only with the respondent's assertion that she was not at home (when the calls were made) and with no corroborative evidence." The board accepted the testimony of the complainant, and found that the respondent did discriminate against the complainant by denying him occupancy of her apartment.

The board ordered the respondent to pay the sum of $350 to the complainant, in compensation for insult to his dignity. The complainant requested that the cheque be made out to the Universal African Improvement Association, an organization dedicated to the improvement of race relations. The respondent has filed a notice of appeal from the decision and order in the Supreme Court of Ontario, Divisional Court.

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STATISTICAL TABLES 1983/84

A. COMPLIANCE CASES RECEIVED

Tables on cases received are indicators of the types and trends of complaints of discrimination by individuals and groups protected under the Code.

TABLES 1 and 2 Complaints Received by Ground and Provision, 1983/84 (1982/83)

Twelve hundred and thirty-seven cases were received in 1983/84. This figure represents an increase of 49% over the number of cases received in 1982/83. This total is the highest for cases received in any one-year period since the inception of the Code. The increase is evidenced in both new and more traditional grounds of discrimination. For example, complaints based on handicap increased by 134% over last year, sexual harassment increased by 31%, family status by 254%, race by 25%, age by 46% and sex by 28%.

The increases indicated reflect a greater public awareness of the legislation following the major educational campaign undertaken last year after the proclamation of the new Code, together with a renewed interest among members of the public in using the protections afforded by the legislation.

While employment complaints, at 76% of the total, continue to be the largest segment of the caseload, they are 5% less than last year, with services now comprising 11%, accommodation 9%, contracts 1% and reprisals 3%.

By the end of this fiscal year, sex (gender and sexual harassment combined) was the ground most frequently cited at 25% of the total cases followed by handicap and race at 23% each. These three grounds comprised 71% of the total number of cases filed.

TABLE 1A - Extensions of Code Provisions Also Cited in Complaints, 1983/84

These provisions, as contained in Parts II and III of the Code, are attached to and serve to extend the prohibitions in Part I.

Constructive discrimination was cited most frequently, in 44 cases, especially in reference to sex and handicap.

TABLE 1 - Complaints Received by Ground and Provision, 1983/84

Code Provisions:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance	Record of Offences	Reprisal/Breach of Settlement	Total	Percentages
Ground:														
Part I														
Services	47	9	5	15	-	8	2	9	41	n/a	n/a	-	136	11
Accommodation	30	8	1	7	8	8	9	18	6	14	n/a	-	109	9
Contracts	2	-	3	4	-	-	-	-	-	n/a	n/a	-	9	1
Employment	204	54	26	149	122	111	14	12	242	n/a	6	-	940	76
Vocational Associations	3	1	2	-	-	-	-	-	1	n/a	n/a	-	7	-
Reprisal	-	-	-	-	-	-	-	-	-	n/a	n/a	35	35	3
Breach of Settlement	-	-	-	-	-	-	-	-	-	n/a	n/a	1	1	-
Total Complaints Received	286	72	37	175	130	127	25	39	290	14	6	36	1,237	100%
Percentage	23	6	3	14	11	11	2	3	23	1	-	3	100%	
Extension of Code Provisions Also Cited in Complaints:														
Part II and III														
Constructive Discrimination	3	-	4	18	-	3	-	2	13	1	-	-	-	44
Association Discrimination	4	-	-	3	-	1	-	2	3	1	-	-	-	14
Announced Discrimination	-	-	-	-	-	-	-	2	-	-	-	-	-	2
Advertising	-	-	2	2	-	-	-	-	-	-	-	-	-	4
Application Forms	1	1	1	2	-	1	-	1	3	-	-	-	-	10
Employment Agencies	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Employment Plans	-	-	-	-	-	-	-	-	1	-	-	-	-	1
Total Provisions Cited in Complaints Received	8	1	7	25	-	5	-	7	20	2	-	-	-	75

TABLE 2 - Complaints Received by Ground and Provision, 1982/83

Code Provisions:	Grounds: Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Receipt of Public Assistance	Record of Offences	Total	Percentage
Services	20	10	1	3	-	4	8	3	28	-	-	78	9
Accommodation	24	2	1	1	-	4	9	3	4	7	-	55	7
Contracts	2	-	-	1	-	-	1	-	3	-	-	7	1
Employment	180	57	22	125	98	77	21	4	89	-	4	676	81
Vocational Associations	2	1	-	3	1	1	-	1	-	-	-	9	1
Reprisal	1	-	-	4	-	1	-	-	-	-	-	6	1
Total	229	70	24	137	99	87	39	11	124	7	4	831	100%
Percentage	27	8	3	16	12	11	5	1	15	0.5	0.5	100%	

TABLE 3 - Handicap Complaints Received by Type of Handicap, 1983/84

One hundred and twenty-four cases were received representing an increase of 134% over last year. The types of handicap cited were generally similar to those in 1982/83, with general diseases or disorders at 32% of the total number followed in descending order by impairments of limbs/digits and sensory impairments at 14% and 13% respectively. Employment was by far the area giving rise to most complaints, at 83%, representing an increase of 11% over 1982/83.

TABLE 3 - Handicap Complaints Received by Type of Handicap and Code Provision, 1983/84 (1982/83)

Type of Handicap: / Code Provision:	1983/84							1982/83						
	Services	Accommodation	Contracts	Employment	Vocational Associations	Total	Percentages	Services	Accommodation	Contracts	Employment	Vocational Associations	Total	Percentages
Sensory (vision/hearing/speech/etc. impairments)	10	2	-	26	-	38	13	6	1	-	14	-	21	17
Respiratory (asthma/lung diseases/etc.)	-	-	-	8	-	8	3	-	-	1	1	-	2	2
Limbs and Digits (amputation/impairment of limb/digit/etc.)	2	-	-	39	-	41	14	2	-	-	14	-	16	13
Cardiovascular (heart disease/hypertension/stroke/etc.)	1	-	-	8	-	9	3	-	-	-	5	-	5	4
Neuromuscular (dystrophy/sclerosis/cerebral palsy/quadriplegia/etc.)	12	1	-	7	-	20	7	10	1	-	4	-	15	12
Neurological (epilepsy/seizures/brain injury/etc.)	4	1	-	12	-	17	6	2	-	-	7	-	9	7
General Diseases or Disorders (back injuries/allergies/cancer/diabetes/hernia/etc.)	3	-	-	88	-	91	32	2	-	1	32	-	35	28
Miscellaneous (multiple handicaps/obesity/etc.)	2	-	-	28	-	30	10	4	-	-	9	-	13	10
Learning Disability (dyslexia/etc.)	1	-	-	2	1	4	1	-	-	-	-	1	-	-
Mental Retardation (or mental impairment)	1	1	-	3	-	5	2	1	-	-	-	-	1	1
Mental Disorder (psychiatric illness/personality disorders/addictions/etc.)	5	2	-	20	-	27	9	1	2	1	3	-	7	6
Total	41	7	-	241	1	290	100%	28	4	3	89	1	124	100%
Percentage	14	3	-	83	-	100%		23	3	2	72	-	100%	

TABLE 4 - Complaints Received by Sex of Complainant and Ground

Males			Females	
1982/83 (New Code)	1983/84		1983/84	1982/83 (New Code)
108	171	Race/Colour	112	64
16	50	Ethnic Origin	22	5
12	24	Creed	12	3
21	42	Sex	130	84
-	4	Sexual Harassment	126	44
38	65	Age	62	25
6	8	Marital Status	17	11
4	19	Family Status	20	7
88	190	Handicap	95	31
1	4	Public Assistance	10	6
4	6	Record of Offences	-	-
2	16	Reprisal	19	4
-	-	Breach of Settlement	1	-
300	599	Totals	626	284
52%	49%		51%	48%

TABLE 4

Females filed more complaints than males in 1983/84, for the first time in the Commission's history. This was due, in part, to a significant increase in group complaints by females (plant workers) as well as an increase in allegations of sexual harassment.

TABLE 4A - Commission Initiated Complaints by Ground, 1983/84

Race/Colour - 3	Sex - 3	Creed - 1	Handicap - 5
	Total - 12		

TABLE 4A

Under section 31(2) of the Code, the Commission may initiate complaints at the request of persons, or on its own initiative, where violations of the Code are apparent. Examples of complaints initiated are: several on behalf of minors; one alleging that mentally handicapped persons were being recruited by questionable methods to be employed as farm workers; and one alleging discriminatory recruitment practices by an employment agency operating in Ontario on behalf of an Arab country.

B. COMPLIANCE CASES CLOSED

TABLES 5 and 6 Complaints Disposed of by Ground, 1983/84 (1982/83)

One thousand and twelve cases were disposed of in 1983/84, representing an increase of 33% over 1982/83. This was due, in part, to the fact that additional staff has been made available to the Commission, and had become fully trained during this period.

During the year, 68% of all closed cases was settled, 18% dismissed and 14% withdrawn. Comparative figures for 1982/83 were: 60% settled, 29% dismissed and 11% withdrawn. The highest settlement rate occurred in age at 78% and creed at 76%, while record of offences and reprisal registered the lowest at 50% each. A case is settled where, following investigation and discussion of the facts, the parties agree on the proposals advanced and sign an agreement outlining the terms of the settlement, or where the complainant indicates in writing that he/she is satisfied that discrimination did not occur in his or her case.

Under section 33, the Commission may decide not to deal with a case in any of four specific circumstances delineated in the Code. Also, respondents may invoke any of those four as defences and the Commission will approve or reject their arguments. Where the case is not dealt with, the complainant is advised in writing of the decision and reasons thereof and he/she may request a reconsideration of the Commission's decision. This fiscal year, of the 41 cases considered under section 33, 26 were not dealt with and 15 proceeded to investigation.

Under section 36, where a complaint is not settled and the Commission decides not to appoint a board of inquiry under section 35 or where a complaint is not dealt with under section 33, the complainant may request the Commission to reconsider its decision. In this case, the case-file is scrutimized and the evidence re-assessed by a senior staff member who wasn't involved in the previous investigation, and recommendations are made to the Commission on the merits of the complainant's position. Where warranted, reinvestigation and reconciliation of the matter takes place and the original decision may be reversed. This fiscal year, there were 66 reconsideration requests of which 56 were completed. As a result, two dismissals were reversed.

TABLE 5 – Complaints Disposed of by Ground, 1983/84

Ground: / Disposition:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance	Record of Offences	Reprisals	Total
Settled	164	30	26	136	70	89	17	13	125	12	3	5	690
	61%	51%	76%	74%	71%	78%	65%	68%	71%	75%	50%	50%	68%
Dismissed	71	20	5	25	10	12	7	4	16	4	1	2	177
	26%	34%	15%	13%	10%	11%	27%	21%	9%	25%	17%	20%	18%
Withdrawn	33	9	3	24	19	12	2	2	36	-	2	3	145
	13%	15%	9%	13%	19%	11%	8%	11%	20%	-	33%	30%	14%
Total	268	59	34	185	99	113	26	19	177	16	6	10	1,012

TABLE 6 – Complaints Disposed of by Ground, 1982/83

Ground: / Disposition:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Receipt of Public Assistance	Record of Offences	Total
Settled	150 63%	44 54%	11 85%	92 53%	62 74%	53 59%	14 58%	3 60%	31 64%	-	-	460 60%
Dismissed	75 31%	29 35%	-	67 38%	13 15%	22 24%	5 21%	-	9 19%	-	-	220 29%
Withdrawn	14 6%	9 11%	2 15%	16 9%	9 11%	15 17%	5 21%	2 40%	8 17%	1	1	82 11%
Total	239	82	13	175	84	90	24	5	48	1	1	762

TABLE 7 - Employment Complaints Disposed of by Type and Ground, 1983/84

Six hundred and forty, or 63%, of the cases closed were employment-related. This Table details the types of employment situations giving rise to complaints.

Complaints involving terminations were the highest at 370, or 58%, followed by recruitment and hiring at 172, or 20%. Those dealing with problems experienced during employment, such as in promotions, transfers, training, classifications and general terms and conditions, numbered 98, or 15%. The average settlement rates for termination cases was 68%, for hiring/recruitment, 62%, and for problems encountered during employment, 74%.

The average settlement rate for all grounds was 68%, with age having the highest rate at 79%, and ethnic origin the lowest at 47%.

TABLE 7 – Employment Complaints Disposed of by Type and Ground, 1983/84

Grounds: / Type of Employment:	Race/Colour									Age								
	Black	East Indian	Asian	Native Indian	Total Visible Minorities	White	RACE - TOTAL	ETHNIC ORIGIN	CREED	18 - 39	40 - 59	60 - 65	AGE - TOTAL	SEX	HANDICAP	OTHERS *	TOTALS
SETTLEMENTS																	
Recruitment and Hiring	15	1	1	-	17	-	17	6	6	4	10	3	17	35	19	7	107
Terminations	33	28	3	-	64	1	65	10	9	6	26	16	48	40	69	12	253
During Employment	15	4	1	-	20	2	22	3	3	1	3	2	6	18	8	13	73
Settlement Totals	**63**	**33**	**5**	-	**101**	**3**	**104**	**19**	**18**	**11**	**39**	**21**	**71**	**93**	**96**	**32**	**433**
% of Ground Totals	57	77	45	-	60	30	59	47	72	79	76	84	79	74	69	74	68
DISMISSALS																	
Recruitment and Hiring	4	1	1	2	8	-	8	5	3	1	-	-	1	13	4	-	34
Terminations	15	6	5	-	26	5	31	8	1	1	4	2	7	4	4	7	62
During Employment	7	1	-	-	8	1	9	3	-	-	1	1	2	2	1	1	18
Dismissal Totals	**26**	**8**	**6**	**2**	**42**	**6**	**48**	**16**	**4**	**2**	**5**	**3**	**10**	**19**	**9**	**8**	**114**
% of Ground Totals	23	18	55	100	25	60	27	40	16	14	10	12	11	15	6	19	18
WITHDRAWALS																	
Recruitment and Hiring	7	-	-	-	7	-	7	2	1	-	1	-	1	4	15	1	31
Terminations	14	2	-	-	16	1	17	3	2	1	6	1	8	7	16	2	55
During Employment	1	-	-	-	1	-	1	-	-	-	-	-	-	3	3	-	7
Withdrawal Totals	**22**	**2**	-	-	**24**	**1**	**25**	**5**	**3**	**1**	**7**	**1**	**9**	**14**	**34**	**3**	**93**
% of Ground Totals	20	5	-	-	15	10	14	12	12	7	14	4	10	11	25	7	14
Ground Totals	**111**	**43**	**11**	**2**	**167**	**10**	**177**	**40**	**25**	**14**	**51**	**25**	**90**	**126**	**139**	**43**	**640**
Percentage	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

* Marital status; family status; public assistance; record of offences and reprisals

TABLE 8 - Closed Employment and Sexual Harassment Complaints by Type of Work and Grounds, 1983/84

Type of Work: / Grounds:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Handicap	Others *	TOTALS
Professional/ Managerial/ Technical	28	7	10	21	8	21	21	9	**125**
Sales	5	3	2	14	9	12	10	6	**61**
Clerical	15	5	2	19	20	15	16	7	**99**
Crafts and Foremen/ Women	20	9	4	4	4	12	12	3	**68**
Operators (machine, lathe, press, etc.)	27	7	1	8	6	3	14	2	**68**
Services	42	4	2	36	34	13	23	7	**161**
Labour/General	40	5	4	24	7	14	43	9	**146**
Totals	**177**	**40**	**25**	**126**	**88**	**90**	**139**	**43**	**728**

* Marital status, family status, record of offences and reprisal

TABLE 8

"Type of Work" denotes the occupational categories of complainants. Complaints in the "services" category registered the highest while "sales" was the lowest.

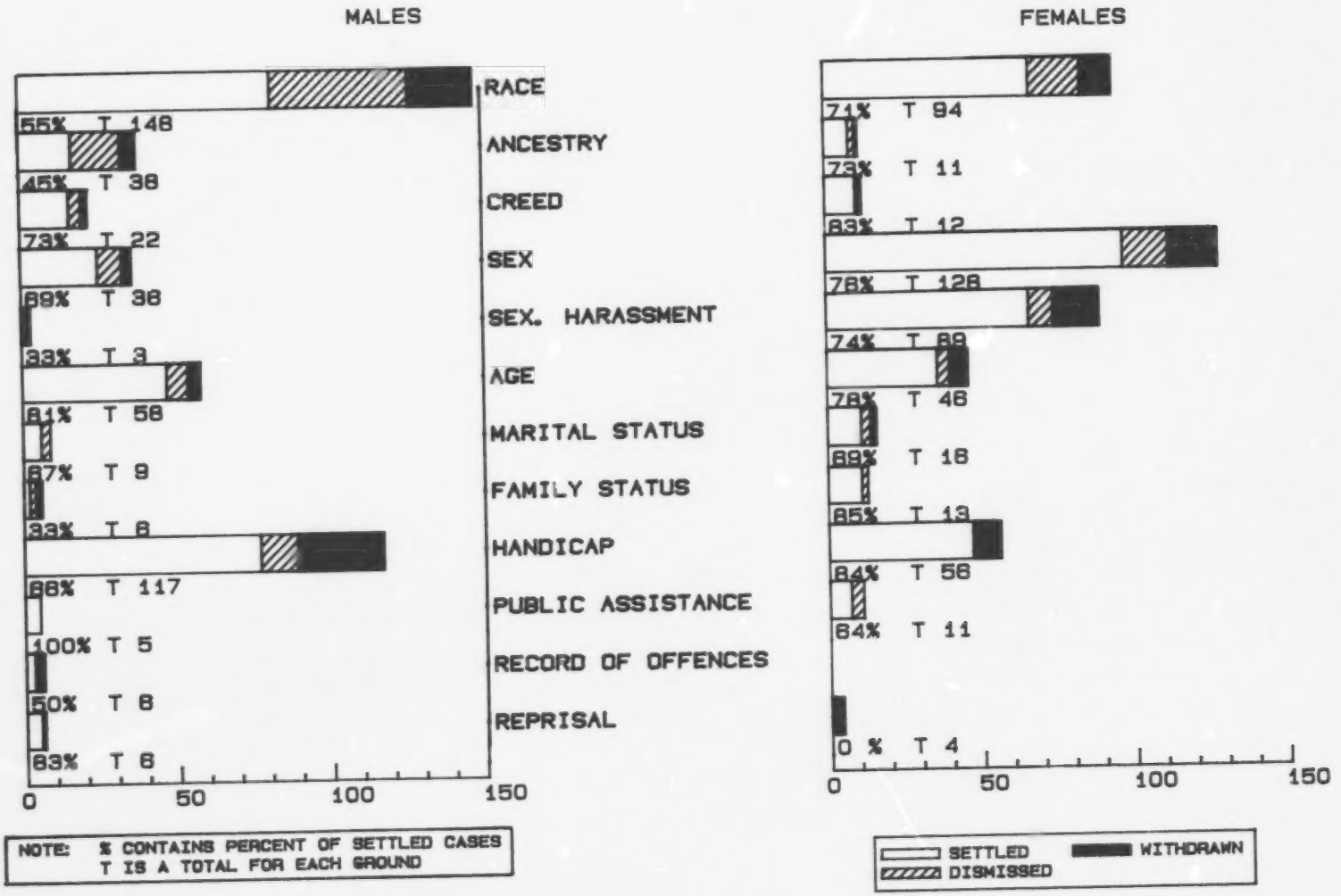
TABLE 9 - Complaints Disposed of by Sex of Complainant and Ground 1983/84

Males								Females							
Withdrawn Nos.	%	Dismissed Nos.	%	Settled Nos.	%	Total Nos.		Total Nos.	Settled Nos.	%	Dismissed Nos.	%	Withdrawn Nos.	%
21	14	45	30	82	56	148	Race	94	67	71	17	18	10	11
5	13	16	42	17	45	38	Ethnic Origin	11	8	73	2	18	1	9
2	9	4	18	16	73	22	Creed	12	10	84	1	8	1	8
3	8	8	22	25	70	36	Sex	128	97	76	15	12	16	12
1	33	1	33	1	34	3	Sexual Harassment	89	66	74	8	9	15	17
4	7	7	12	47	81	58	Age	46	36	78	4	9	6	13
-	-	3	33	6	67	9	Marital Status	16	11	69	3	19	2	12
2	33	2	33	2	34	6	Family Status	13	11	85	2	15	-	-
28	24	12	10	77	66	117	Handicap	56	47	84	1	2	8	14
-	-	-	-	5	100	5	Public Assistance	11	7	64	4	36	-	-
2	33	1	17	3	50	6	Record of Offences	-	-	-	-	-	-	-
-	-	1	17	5	83	6	Reprisal	4	-	-	1	25	3	75
68	-	100	-	286	-	454	Totals	480	360	-	58	-	62	-
15%	-	22%	-	63%	-	100%		100%	75%	-	12%	-	13%	-

TABLE/FIGURE 9

Complaints filed by females registered an average settlement rate of 75% against 63% by males. This difference occurred in all grounds but age, receipt of public assistance and reprisal.

TABLE/FIGURE 9. CASES CLOSED BY SEX OF COMPLAINANT AND GROUND: 1983-84



TABLES 10 and 11 - Settlements Obtained by Ground, 1983/84 (1982/83)

Monetary compensation in 1983/84 reached a total of $865,189 for 326 complainants, or 32% of all complainants, as compared to a total of $534,058 for 26% of all complainants last year. Twenty-nine per cent of all complainants received offers of jobs and facilities, against 25% last year.

Similarly to last year, age was the ground registering the highest monetary compensation reflecting the continuing pressures on workers in the 60 to 65 age group to retire early.

TABLE 10 - Settlements Obtained by Ground, 1983/84

Ground:	Settlement: Specific and General Damages	Number of Complainants Who Received Damages	Offer of Job or Facility	Offer of or Consideration for Next Job or Facility	Affirmative Action Implemented	Seminars With Respondent Staff	Review of Practices, Policies or Documents	Issuance or Correction of References	Letter of Apology to Complainant	Written Declaration of Management Policies
Race/Colour	$ 98,204	(65)	33	25	8	22	56	16	33	71
Ethnic Origin	7,085	(7)	3	7	1	2	8	3	3	8
Creed	39,570	(10)	6	4	-	3	5	3	6	6
Sex	174,811	(75)	31	21	10	17	33	16	22	60
Sexual Harassment	71,271	(55)	8	7	-	10	18	26	28	47
Age	370,973	(50)	18	15	-	9	31	8	13	27
Marital Status	2,606	(4)	4	4	-	2	11	3	7	9
Family Status	2,176	(6)	5	3	-	1	3	1	5	10
Handicap	88,942	(48)	45	50	-	9	55	27	33	50
Receipt of Public Assistance	550	(2)	3	4	-	1	4	1	2	9
Record of Offences	1,400	(2)	1	-	-	-	-	1	-	2
Reprisal	7,601	(2)	1	-	-	-	-	2	-	4
Total	$865,189	(326)	158	140	19	76	224	107	152	303

TABLE 11 - Settlements Obtained by Ground, 1982/83

Ground: / Settlement:	Specific and General Damages	Number of Complainants Who Received Damages	Offer of Job or Facility	Offer of or Consideration for Next Job or Facility	Affirmative Action Implemented	Seminars With Respondent Staff	Review of Practices, Policies or Documents	Issuance or Correction of References	Letter of Apology to Complainant	Written Declaration of Management Policies
Race/Colour	$ 58,710	(42) *	26	23	7	24	31	17	13	145
Ethnic Origin	38,872	(14)	5	2	1	9	5	3	3	36
Creed	4,561	(3)	3	1	1	1	5	1	-	9
Sex	59,183	(54)	20	40	15	33	28	9	15	145
Sexual Harassment	76,261	(43)	2	6	-	8	5	1	3	13
Age	287,913	(32)	13	10	1	10	7	3	7	45
Marital Status	1,388	(3)	1	2	2	2	3	-	1	12
Family Status	-	(-)	2	3	-	-	2	-	1	3
Handicap	7,170	(7)	16	15	1	8	20	5	8	23
Receipt of Public Assistance	-	(-) -	-	-	-	-	-	-	-	-
Record of Offences	-	(-) -	-	-	-	-	-	-	-	-
Reprisal	-	(-) -	-	-	-	-	-	-	-	-
Total	$534,058	(198)	88	102	28	95	106	39	51	431

TABLE 12 - Boards of Inquiry Appointed and Completed, 1983/84

	1983/84		1982/83	
Boards Appointed	33	(60)*	22	
Boards Completed:	28	(44)	21	(27)
Decisions for Complainant	7	(15)	14**	
Pre-hearing Settlements	13	(18)	-	
Decisions for Respondent	7	(10)	6	
Complaints Withdrawn	1	(1)	1	
Boards Incomplete (from all years)	32	(61)		
Board Decisions Under Appeal	6	(14)	2	

* Number of complainants involved
** Includes pre-hearing settlements

TABLE 12

Eleven, or 50% more, boards were appointed in 1983/84. Seven more were completed. Thirteen boards were settled prior to the hearing. One board case was withdrawn by the complainant as a result of an interim board decision ordering the respondent to make available to the Commission documents theretofore withheld as confidential.

TABLE 13 - Intake, Voluntary Compliance And Public Education, 1983/84 (1982/83)

	1983/84	1982/83
	OHRC Total	OHRC Total
Inquiries	41,491	35,351
Referrals	10,272	4,812
Informal Resolutions	346	567
Application Form Reviews	745	1,199
Advertising Reviews	255	451
Exemptions	68	57
Public Education Activities*	1,240	884
Publications Distributed	342,723	543,680

* These totals are shown in Table 18

TABLE 13

The number of inquiries, referrals and public education activities continued to increase during this fiscal year, reflecting the broader coverage of the new Code and the consequent public demand for information and consultations with the Commission.

There was a decrease in the number of informal resolutions, application form reviews and publications distributed. This was due to the fact that the public, employers and organizations became more familiar with the new provisions of the Code and the demand for revision of advertisements and application forms was not as great as in the period immediately following the Code's proclamation.

TABLE 14 - Closed Race Relations Cases by Sector, 1983/84 (1982/83)

Sector	1983/84			1982/83		
	Media-tions	Projects	Consulta-tions	Media-tions	Projects	Consulta-tions
Neighbourhood Relations	36	5	15	39	4	8
Public Services/Facilities	13	1	10	15	1	2
Criminal Justice System	38	9	33	27	13	13
Educational Institutions	16	7	71	11	8	52
The Workplace	8	2	15	7	4	17
Unions	1	-	10	1	1	10
Media	16	1	10	10	4	14
Health/Social Services	2	5	15	1	4	10
Community Organizations	17	16	229	5	15	179
Religious Institutions	1	-	10	3	2	11
Government	8	13	47	12	15	50
Community at Large	1	7	24	1	-	18
Total	157	66	489	132	71	384

Mediations

Involve the response of the Division to specific racial, ethnic or religious tensions and conflicts that develop at the community and institutional levels and the deployment of resources to address them.

Projects

Involve race relations program development and delivery initiatives designed to improve race relations by addressing discriminatory practices at both the community and institutional levels.

Consultations

Include information giving and advice on race relations issues to individuals and groups as requested.

In addition to cases as described in Table 14, there were 33 public education projects, 234 public education activities and seven research projects closed this fiscal year.

ONTARIO HUMAN RIGHTS COMMISSION STAFF*

at March 31, 1984

Office of the Chairman

Jones, Howard
Shaw, Marian
Silberman, Toni
Wood, Glenda

Office of the Race Relations Commissioner

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Ifejika, Sam
Ramondt, Susan
Tan, Khim

Office of the Executive Director

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Legal Section

Herman, Thea
Talamo, Barbara

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Feldman, Alice
Gaspar, Fern
McGregor, Sharon
Mears, Laurie
Reynolds, Jessica
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Watson, Karen

Conciliation and Compliance Division

Hurley, Helen
Stratton, Jim
Svegzda, Laima

Unit for the Handicapped

Binstock, Rob
Gulamhussein, Zarina
Justason, Barbara
Lawrence, Greg
Ramanujam, Sita
Ruiter, Fred
Singh, Vidya

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Bullen, Sharon
Chiappa, Anna
DaSilva, Mike
D'Ignazio, Danny
Gill, Surinder
Guttentag, Gail
Nakamura, Mark
Rouse, Philip
St. Onge, Joanne
Schweitzer-Rozenberg, Ruth
Siu, Bobby
Whist, Eric
Witter, Merv
Zaidi, Urooj

Eastern Ontario Region

Ackroyd, Lynda
Legault, Thérèse
Polley, Joe
Richard, Maurice

Northern Ontario Region

Galinis, Ruth
Jackson, Bill
Lapalme, Gilles
Mitchell, Irene
Welch, Dan

Southwestern Ontario Region

Barnes, Dorothy
Burns, Walter
Carrick, Anne
Dahlin, Anita
Marino, Len
McSween, Selwyn
Wilson, Kim

Toronto Central Region

Cargill-Sim, Fiona
Chapman, Shirley
Crean, Fiona
Holt, Silvilyn
Johnson, Beverley
Mullings, Paulette
Nebout, Maggie
Obermuller, Diane
Speranzini, Gary
Stern, Doris

Toronto East Region

Caffrey, Colm
Della Vella, Rick
Dewe, David
Edwards, Neil
Fiddes, Judy
Kerna, Gloria
Mankikar, Ann
Morrison, Glen
Palacio, Roger
Robson, Beverley
Simon, Michael

Toronto West Region

Arnot, Perry
Chopra, Raj
Hogan, Frank
Kaczmarski, Joan
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Commission ontarienne des droits de la personne

Ontario

Rapport annuel 1983-1984

CODE DES DROITS DE LA PERSONNE

PRÉAMBULE

CONSIDÉRANT que la reconnaissance de la dignité inhérente à tous les membres de la famille humaine et de leurs droits égaux et inaliénables constitue le fondement de la liberté, de la justice et de la paix dans le monde et est conforme à la Déclaration universelle des droits de l'homme proclamée par les Nations unies;

CONSIDÉRANT que l'Ontario a pour principe de reconnaître la dignité et la valeur de la personne et d'assurer à tous les mêmes droits et avantages, sans discrimination contraire à la loi, et qu'elle vise à créer un climat de compréhension et de respect mutuel de la dignité et de la valeur de la personne de façon que chacun s'estime partie intégrante de la collectivité et apte à contribuer pleinement à l'avancement et au bien-être de son milieu et de sa province;

ET CONSIDÉRANT que ces principes sont confirmés en Ontario par un certain nombre de lois et qu'il est opportun de réviser et d'accroître la protection des droits de la personne en Ontario:

William Davis

PREMIER MINISTRE

MINISTRE DU TRAVAIL

PRÉSIDENT, COMMISSION ONTARIENNE DES DROITS DE LA PERSONNE

Pour ces motifs, Sa Majesté, de l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit:

1 La personne a droit à un traitement égal en matière de services, de biens ou d'installations, sans discrimination fondée sur la race, l'ascendance, le lieu d'origine, la couleur, l'origine ethnique, la citoyenneté, la croyance, le sexe, l'âge, l'état matrimonial, l'état familial ou une infirmité. 1981, chap. 53, art. 1.

2 (1) La personne a droit à un traitement égal en matière d'occupation d'un logement, sans discrimination fondée sur la race, l'ascendance, le lieu d'origine, la couleur, l'origine ethnique, la citoyenneté, la croyance, le sexe, l'âge, l'état matrimonial, l'état familial, l'état d'assisté social ou une infirmité.

(2) L'occupant d'un logement a le droit de vivre sans être harcelé par le propriétaire ou son représentant ou un occupant du même immeuble pour des raisons fondées sur la race, l'ascendance, le lieu d'origine, la couleur, l'origine ethnique, la citoyenneté, la croyance, l'âge, l'état matrimonial, l'état familial, l'état d'assisté social ou une infirmité. 1981, chap. 53, art. 2.

3 La personne pourvue de capacité juridique a le droit de passer un contrat à titre de partenaire égal, sans discrimination fondée sur la race, l'ascendance, le lieu d'origine, la couleur, l'origine ethnique, la citoyenneté, la croyance, le sexe, l'âge, l'état matrimonial, l'état familial ou une infirmité. 1981, chap. 53, art. 3.

4 (1) La personne a droit à un traitement égal en matière d'un emploi, sans discrimination fondée sur la race, l'ascendance, le lieu d'origine, la couleur, l'origine ethnique, la citoyenneté, la croyance, le sexe, l'âge, l'existence d'un casier judiciaire, l'état matrimonial, l'état familial ou une infirmité.

(2) L'employé a le droit de travailler sans être harcelé au travail par son employeur ou son représentant ou un autre employé pour des raisons fondées sur la race, l'ascendance, le lieu d'origine, la couleur, l'origine ethnique, la citoyenneté, la croyance, l'âge, l'existence d'un casier judiciaire, l'état matrimonial, l'état familial ou une infirmité. 1981, chap. 53, art. 4.

5 La personne a droit à un traitement égal en matière d'adhésion à un syndicat ou à une association commerciale ou professionnelle ou en matière d'exercice d'une profession autonome, sans discrimination fondée sur la race, l'ascendance, le lieu d'origine, la couleur, l'origine ethnique, la citoyenneté, la croyance, le sexe, l'âge, l'état matrimonial, l'état familial ou une infirmité. 1981, chap. 53, art. 5.

6 (1) L'occupant d'un logement a le droit de vivre sans être harcelé par le propriétaire ou son représentant ou un occupant du même immeuble pour des raisons fondées sur le sexe.

(2) L'employé a le droit de travailler sans être harcelé à son travail par son employeur ou son représentant ou un autre employé pour des raisons fondées sur le sexe.

(3) La personne a le droit d'être à l'abri:

a) d'avances sexuelles provenant d'une personne apte à lui accorder ou à lui refuser un avantage ou une promotion lorsque la personne qui fait les avances sait ou devrait normalement savoir que celles-ci sont importunes;

b) de représailles ou de menaces de représailles pour avoir refusé d'accéder à des avances sexuelles lorsque ces représailles ou menaces proviennent d'une personne apte à lui accorder ou à lui refuser un avantage ou une promotion. 1981, chap. 53, art. 6.

7 La personne a le droit de revendiquer et de faire respecter les droits qui lui sont reconnus par la présente loi, d'introduire des instances aux termes de la présente loi et d'y participer, et de refuser d'enfreindre un droit reconnu à une autre personne par la présente loi sans représailles ou menaces de représailles. 1981, chap. 53, art. 7.

8 Il est interdit d'enfreindre un droit reconnu par la présente partie ou de causer, directement ou indirectement, l'infraction d'un tel droit. 1981, chap. 53, art. 8.

CE RAPPORT EST AUSSI DISPONIBLE EN FRANÇAIS